

Agenda Date: May 7, 2020
Item Number: A2

Docket: UT-190744
Company Name: Sage Telecom Communications, LLC d/b/a TruConnect

Staff: Tim Zawislak, Senior Regulatory Analyst
Sean Bennett, Regulatory Analyst
Jing Roth, Assistant Director - Telecommunications

Recommendation

Issue an order in Docket UT-190744:

- Designating Sage Telecom Communications, LLC, as an Eligible Telecommunications Carrier for the purpose of receiving Lifeline support from the federal Universal Service Fund in service areas specified in Attachment 1 and subject to the conditions in Attachment 2, and
- Granting exemptions from Washington Administrative Code 480-123-030(1)(d), (f), and (g), which require the filing of a substantive investment plan, wireless network maps, and certification on backup power capabilities, respectively.

Background

On July 25, 2019, Sage Telecom Communications, LLC d/b/a TruConnect (Sage or company) filed a petition with the Washington Utilities and Transportation Commission (commission) requesting designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the Act), and Washington Administrative Code (WAC) 480-123-030. Sage seeks ETC designation in Washington for the purpose of receiving federal Low Income (Lifeline) support that subsidizes monthly charges for telecommunications service for qualified low-income households. Lifeline support is part of the federal Universal Service Fund (USF). The company is a reseller of facility based wireless service providers. Sage also requests an exemption from Washington Administrative Code 480-123-030(1)(d), (f), and (g), which require ETC applicants to file a substantive investment plan, wireless network maps, and certification on backup power capabilities.

Sage filed supplemental information on December 23, 2019, to update the company's proposed Lifeline rate plans in compliance with the Federal Communications Commission's (FCC's) minimum service standards.¹ The details of Sage's proposed rate plans are as follows:

Plan Type	Monthly Minutes	Monthly Text Messages	Monthly Data	Net Cost to Qualifying Customers
Basic Lifeline	1,000	Unlimited	3.0 GB	\$0.00
Tribal Lifeline	Unlimited	Unlimited	3.0 GB	\$0.00

¹ See *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, and 10-90, Order, FCC 19-116 (rel. Nov. 19, 2019) ("MSS Order"). NOTE: the imputed credit for Basic is \$9.25 and Tribal is \$34.25. These support amounts are distributed to the company for each qualifying customer.

Both plans include:

- Free data-capable device or SIM card (upgraded device for Tribal customers)
- Free calls to Company Customer Service
- Free calls to 911 emergency services
- Free access to Voicemail, Caller-ID, Call Waiting, Call Forwarding, and 3-Way Calling
- Free Domestic Long Distance
- Data at 3G speeds or higher

Customers can purchase additional voice minutes, data plans, and international talk refill options that are sold through the company's website at www.truconnect.com/international.

On April 13, 2020, Sage filed an updated service area listing (by exchange) along with an updated and corrected company officer certification. Sage explains how its Lifeline services will assist Low-Income consumers in Washington to meet the challenges of the COVID-19 virus and social distancing response.

Sage provides Lifeline service in 28 states through commercial mobile radio service by utilizing the networks of Verizon, Sprint, and T-Mobile. It has been granted ETC designation in 28 states and has applications pending before the FCC, the New Mexico PSC, and the Washington Commission (under the instant case). The application pending before the FCC was recently refiled and includes seven states: Alabama, Connecticut, Delaware, Florida, Maine, New Hampshire, North Carolina, Tennessee, and Virginia, and the District of Columbia (collectively, the "Non-Jurisdictional States").² California is perhaps the most active of the 28 states, where Sage also operates as "TruConnect."

Discussion

The commission has jurisdiction over ETC petitions. Section 214 (e) of the Act authorizes state regulatory commissions to designate a qualified common carrier as an ETC for the purpose of receiving federal Universal Service Funds.³ Under WAC 480-123-040, the commission has authority to approve petitions from carriers requesting ETC designation. The commission's authority to grant or deny petitions for ETC designation includes the authority to impose conditions.⁴

Commission staff (staff) finds that Sage qualifies for ETC designation with the proposed conditions in Attachment 2. Under 47 U.S.C. § 214(e)(2), state commissions may designate more than one carrier as an ETC in an area if such designation is "consistent with the public interest, convenience, and necessity" and the carrier seeking designation as an ETC meets the two requirements of 47 U.S.C. § 214(e)(1):

² "Revised Amended Petition" dated March 24, 2020, in FCC Docket WC 09-197.

³ 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.201(c).

⁴ *In the Matter of the Petition of TracFone Wireless, Inc. for Exemption from WAC 480-123-030(1)(d),(f) and (g); and Designation as an Eligible Telecommunications Carrier for the Purpose of Receiving Lifeline Support from the Federal Universal Service Fund*, Order 03 (June 24, 2010), UT-093012, ¶ 78.

- (A) offer the services that are supported by federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
- (B) advertise the availability of such services and the charges therefore using media of general distribution.

Sage is a common carrier. It is capable of providing services supported by federal universal service mechanisms, as defined in 47 C.F.R. § 54.101(a) by reselling its underlying network carrier's services. Based on the FCC's *Lifeline and Link Up Reform Order*, the Federal Communications Commission (FCC) forbears from applying the Act's facilities-based requirement to all carriers that seek limited ETC designation to participate in the Lifeline program on the condition that the FCC's Wireline Competition Bureau approves such ETC applicant's Compliance Plan.⁵ The Compliance Plan must demonstrate the ETC applicant's commitment to fight waste, fraud, and abuse in the Lifeline program and describe its adherence to the revised federal Lifeline rules. Sage has met the forbearance condition. Its Compliance Plan was approved by the FCC on December 26, 2012.⁶ The company also commits that it will advertise the availability of Lifeline services.

The company meets the requirements of the Washington rule on ETC designation, WAC 480-123-030, except subsections (1)(d), (f) and (g):

- WAC 480-123-030(1)(d) requires an ETC petitioner to provide a “substantive plan of the investments to be made with initial federal support during the first two years in which support is received and a substantive description of how those expenditures will benefit customers.” Sage requests an exemption from the requirement because the company seeks only Lifeline support, not federal High Cost support. It does not have an obligation to use federal USF for infrastructure investment.
- WAC 480-123-030(1)(f) requires a wireless ETC petitioner to provide “a map in .shp format of proposed service areas (exchanges) with existing and planned locations of cell sites and shading to indicate where the carrier provides and plans to provide commercial mobile radio service signals.” Sage requests an exemption because it does not have access to its underlying carriers' maps.

⁵ *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb 6, 2012) (“*Lifeline and Link Up Reform Order*”), ¶¶ 361 - 381.

⁶ Wireline Competition Bureau Approved the Compliance Plans of Airvoice Wireless, Amerimex Communications, Blue Jay Wireless, Millennium 2000, Nexus Communications, Platinumtel Communications, Sage Telecom, Telrite and Telscape Communications; FCC Public Notice, WC Docket Nos. 09-197 and 11-42, DA 12-2063 (rel. December 26, 2012).

- WAC 480-123-030(1)(g) requires a wireless ETC to have “at least four hours of back up battery power at each cell site, backup generators at each microwave hub, and at least five hours back up battery power and backup generators at each switch.” Sage requests an exemption because it does not have control over its underlying carriers’ emergency power back up facilities.

Staff supports the company’s request for exemptions from the three requirements under WAC 480-123-030. Granting the request is consistent with the public interest, the purposes underlying regulation, and applicable statutes. The Commission granted these exemptions in its orders designating Lifeline-only ETCs such as Boomerang and TracFone Wireless, Inc.

Staff reviewed the company’s technical and financial capabilities to provide the supported Lifeline service and carefully considered relevant factors suggested in the FCC’s Lifeline and Link Up Reform Order.⁷ Based on the company’s operational history and company financial statements staff concludes that the company is technically and financially capable of providing the supported Lifeline service in compliance with all the low-income program rules.

Even though other similarly situated Lifeline-Only (LLO) ETCs in Washington have been required to work with the Department of Social and Health Services (DSHS) to gain access to their benefit verification system query database to verify the eligibility of those customers whose qualification is based on their participation in Medicaid, Supplemental Nutrition Assistance Program, Supplemental Security Income and Temporary Assistance for Needy Families; staff does not recommend that going forward due to the FCC’s and USAC’s implementation of the National Verifier and NLAD systems (effective January 22, 2020, in Washington state). Both the FCC’s National Lifeline Accountability Database and the National Lifeline Eligibility Database (aka the National Verifier or “NV”) are now fully functional.

Staff recommends that the commission modify the normal set of conditions to Sage’s ETC designation due to the fact that these national databases are now in place and are fully functional.⁸ The specific (modified) conditions for Sage are listed in Attachment 2. One notable change relative to the conditions previously imposed on other ETCs is the elimination of the one-year interim designation. The more recent developments are expected to address effectively the problems of duplicative Lifeline claims. Staff believes monitoring and rule enforcement in the Lifeline market obviates the need for the commission’s one-year interim condition.

Staff emphasizes that Sage must strictly comply with its commitments in the Compliance Plan reviewed and approved by the FCC. Deviation from its Compliance Plan would forfeit the forbearance from the own-facilities requirements granted by the FCC, consequently not meeting the qualification for ETC designation from this commission.

⁷ *Lifeline and LinkUp Reform Order*, ¶¶ 388.

⁸ The commission has previously imposed conditions on similarly situated Lifeline only ETCs.

Conclusion

Staff believes that designating Sage as a Lifeline-only ETC will deliver benefits and additional choices to low-income households in Washington. Staff recommends the commission enter an order designating Sage Telecom Communications, LLC (d/b/a TruConnect) as an Eligible Telecommunications Carrier for the purpose of receiving Lifeline support from the federal Universal Service Fund in the service areas specified in Attachment 1; and, subject to the conditions specified in Attachment 2, while also granting exemptions from 480-123-030 (1)(d), (f) and (g).

Attachments (2)