

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

Rainier Connect North, LLC, d/b/a Click!
Cable TV,

Petitioner,

Seeking Designation as an Eligible
Telecommunications Carrier in the State of
Washington pursuant to 47 U.S.C. §
214(e)(2) (Low Income Only)

DOCKET UT-200230

ORDER 01

GRANTING ELIGIBLE
TELECOMMUNICATIONS CARRIER
DESIGNATION WITH CONDITIONS
AND EXEMPTION FROM RULE

BACKGROUND

- 1 On March 18, 2020, Rainier Connect North, LLC, d/b/a Click! Cable TV (RCN or Company) filed a petition with the Washington Utilities and Transportation Commission (Commission) requesting designation as an Eligible Telecommunications Carrier (ETC) in the state of Washington under the Communications Act of 1934,¹ applicable FCC rules, and WAC 480-123. RCN proposes to provide qualified Washington consumers with Lifeline services, which are federal Universal Service Fund (USF) supported services.² ETC designation would allow the Company to receive federal low-income universal service support for broadband internet and voice telephony service provided through its facility-based “Click! Cable TV” network. RCN proposes a service area located in Tacoma, Washington.³
- 2 On May 11, 2020, RCN supplemented its filing to reflect proposed Lifeline rate plans and a certification from a company officer as required by WAC 480-123-030.⁴

¹ 47 U.S.C. § 214 (e)(2).

² The USF subsidizes monthly and, in certain circumstances, initial connection charges for qualified low-income households.

³ Petition, Exhibit 1 (Boundary).

⁴ See RCN May 11, 2020 Additional Information Requests.

- 3 RCN submits that it proposes to serve a non-rural area in Tacoma, Washington.⁵ RCN states that the designation of an additional ETC in a non-rural area based on a demonstration that the requesting carrier complies with the statutory eligibility obligations of section 214(e)(1) is consistent with the public interest.⁶ Accordingly, The Company states that it will offer services that are supported by federal universal service support mechanisms by providing voice telephony service and broadband through its network. The Company also commits to advertising its available Lifeline services consistent with the FCC's *LifeLine Reform Order*.⁷
- 4 RCN's Petition also seeks an exemption from WAC 480-123-030(1)(d), which requires high-cost program participants to file a substantive plan of the investments to be made with initial federal support for the first two years of their programs. RCN indicates that it does not seek ETC designation for the purpose of participating in the USF high-cost program, making the substantive investment plan inapplicable to its petition. In the alternative, RCN requests that the Commission find the Company's Indefeasible Right of Use (IRU) agreement with Tacoma Public Utilities satisfies the requirement for an investment plan as required by WAC 480-123-030(1)(d).⁸
- 5 Commission staff (Staff) agrees with RCN that the Company meets all applicable regulatory requirements to be designated as an ETC. However, Staff presented, and the Company agreed to comply with, a list of conditions the Commission previously imposed on other similarly situated Lifeline ETCs seeking to operate in Washington. These include compliance filings, customer communications, and annual reports to be filed with the Commission. A complete list of these conditions is set forth in Appendix A to this Order.

⁵ *Id.* at 6. See also Petition, Exhibit 1 (Boundary).

⁶ Petition at 5-6 (citing *Federal-State Joint Board on Universal Service; Celco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier, Memorandum and Order*, CC Docket No. 96-45, 16 FCC Red 39, 45; -U 14 (Rel. December 26, 2000)).

⁷ Petition at 9 (citing *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 (rei. February 6, 2012)).

⁸ Petition at 11.

- 6 Staff also agrees with and recommends granting RCN's request for exemptions from the filing requirements of WAC 480-123-030(1)(d), due to the limited nature of the designation as a Lifeline Only (LLO) ETC. Staff notes that RCN has a financial obligation as it relates to the IRU with Tacoma Power, which may be interpreted as indirect infrastructure investment. Regardless, Staff recommends granting the exemption.
- 7 Staff notes that the FCC's National Lifeline Accountability Database and the National Lifeline Eligibility Database (aka the National Verifier or NV) are now fully functional. Because these systems are now functional, Staff does not recommend requiring RCN to verify customer eligibility by working with the Department of Social and Health Services.

DISCUSSION

- 8 Common carriers receiving designation as ETCs under 47 U.S.C. § 214 are eligible to receive funds from the federal USF for Lifeline services. State utility commissions are responsible for designating common carriers as ETCs for the purpose of receiving such funds, and may impose conditions on a common carrier so designated.⁹ The Commission will approve petitions from carriers requesting ETC designation if the petition meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of universal service found in 47 U.S.C. § 254, and the designation is in the public interest.¹⁰
- 9 State commissions shall designate more than one carrier as an ETC in a non-rural area if such designation is consistent with the public interest, convenience, and necessity and the carrier seeking ETC designation meets these two requirements of 47 U.S.C. § 214(e)(1):
- (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

⁹ *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.

¹⁰ WAC 480-123-040.

(B) Advertise the availability of such services and the charges therefor using media of general distribution.¹¹

- 10 Here, RCN seeks ETC designation for the limited purpose of participating in the Lifeline program. The Company further proposes to serve a non-rural area. We agree with Staff that RCN is capable of providing services supported by federal universal service mechanisms by providing voice telephony service and broadband service through its “Click! Cable TV” network. These services are supported by federal universal service support mechanisms.¹² Further, RCN commits to advertise its Lifeline services.¹³ Designating the Company an ETC is consistent with the public interest, convenience, and necessity.
- 11 Staff is correct that certain additional conditions should be imposed on RCN as we have done when designating other similarly situated ETCs in Washington. Appendix A to this order provides the Company specific guidance on our expectations for regulatory compliance, customer service, consumer protection, and various reporting requirements that will ensure Staff can monitor RCN’s operations for strict adherence to all ETC requirements.
- 12 We also agree that RCN has demonstrated that the requirements of WAC 480-123-030(1)(d) should not apply to the Company because the rule only applies to high-cost program participants and RCN is not a high-cost program participant. Under WAC 480-07-110(1), the Commission may grant an exemption any of its rules if doing so is consistent with the purposes underlying regulation, applicable statutes, and the public interest. Such circumstances exist here. Accordingly, we grant the Company’s request for exemption from WAC 480-123-030(1)(d).

FINDINGS AND CONCLUSIONS

¹¹ 47 U.S.C. § 214(e)(2).

¹² 47 C.F.R. § 54.101(a).

¹³ Petition at 9.

- 13 (1) The Commission has jurisdiction over the subject matter of this Order and is authorized to designate Eligible Telecommunications Carriers in Washington under 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.201(b)-(c), and WAC 480-123.
- 14 (2) RCN is a telecommunications company seeking to do business in the state of Washington. RCN meets the requirements for designation as an ETC because the Company provides services supported by federal universal universal support mechanisms and because RCN has committed to advertise the availability of its services and the charges therefor using media of general distribution.
- 15 (3) RCN's designation as an ETC will advance the purpose of universal service because RCN will offer voice telephony services and broadband services, which facilitate universal service. RCN has also demonstrated that its designation as an ETC is in the public interest.
- 16 (4) Under WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 17 (5) RCN has demonstrated that WAC 480-123-030(1)(d) should not apply to the Company and that granting the requested exemption is consistent with the requirements set forth in WAC 480-07-110(1).
- 18 (6) The Commission should grant RCN's petition for ETC designation and for exemption from the requirements of WAC 480-123-030(1)(d).
- 19 (7) This matter came before the Commission at its regularly scheduled meeting on June 25, 2020.

ORDER

THE COMMISSION ORDERS:

- 20 (1) Rainier Connect North, LLC, d/b/a Click! Cable TV's request for designation as an ETC is hereby GRANTED subject to the conditions set out in Appendix A.
- 21 (2) Rainier Connect North, LLC, d/b/a Click! Cable TV's request for exemption from WAC 480-123-030(1)(d) is hereby GRANTED.

- 22 (3) The Commission retains jurisdiction over this matter for purposes of effectuating this order.

DATED at Lacey, Washington, and effective June 25, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner

APPENDIX A

Washington State Conditions on Designation of Rainier Connect North, LLC, d/b/a Click! Cable TV, as an Eligible Telecommunications Carrier

1. Rainier Connect North, LLC, d/b/a Click! Cable TV, shall file with the Commission (in this docket) any future changes to its Lifeline rates, terms, or conditions at least one day prior to the effective date of the change.
2. The information on Rainier Connect North, LLC, d/b/a Click! Cable TV's rates, key terms and conditions (*e.g.*, return policy, annual certification requirement, and customer service contact) shall be provided in a package sent or given to Lifeline customers after enrollment in RCN's Lifeline program, as well as at RCN's official Lifeline website.
3. Rainier Connect North, LLC, d/b/a Click! Cable TV, shall provide Lifeline customers with the choice of all other rate plans available to its regular customers.
4. For the specified Lifeline discounts in its rate plan(s) to customers, Rainier Connect North, LLC, d/b/a Click! Cable TV, must meet the FCC's minimum service standards.
5. Rainier Connect North, LLC, d/b/a Click! Cable TV, shall cooperate with the commission and the Universal Service Administrative Company (USAC), including full participation in the new National Verifier system.
6. Rainier Connect North, LLC, d/b/a Click! Cable TV, shall file with the Commission, by March 31 of each year, a report on the number of complaints, categorized by the different nature of complaints that it received from Washington Lifeline customers during the prior calendar year (*e.g.*, billing disputes and service quality complaints). This report shall include complaints filed with RCN, the Commission's Consumer Protection Division, the Washington State Office of the Attorney General, and the Federal Communications Commission (FCC). This report shall not include calls from customers to RCN with regard to general inquiries such as account balance, additional purchases, service availability or technical support. The Commission reserves the rights to revoke RCN's ETC designation if RCN fails to provide reasonable quality of service.
7. Rainier Connect North, LLC, d/b/a Click! Cable TV, shall cooperate with the Washington State Enhanced 911 Program (E911) and all Public Safety Answering Points on E911 issues and shall, upon request, designate a representative to serve as a member or alternate member of the Washington State E911 Advisory Committee or its Communications Sub-committee.
8. Rainier Connect North, LLC, d/b/a Click! Cable TV, shall comply with all applicable federal and Washington state statutes and regulations, including E911 tax contributions.