

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET UT-110321
)	
TELRITE CORPORATION D/B/A)	
LIFE WIRELESS,)	ORDER 01
)	
Petitioner,)	
)	ORDER GRANTING ELIGIBLE
Seeking Designation as an Eligible)	TELECOMMUNICATIONS CARRIER
Telecommunications Carrier in the)	DESIGNATION WITH CONDITIONS
state of Washington pursuant to 47)	AND EXEMPTION FROM RULE
U.S.C. § 214(e)(2) on a Wireless)	
Basis (Low Income Only))	
)	
.....)	

BACKGROUND

- 1 On February 17, 2011, Telrite Corporation d/b/a Lifeline Wireless (Telrite or Company) filed a petition (Original Petition) with the Washington Utilities and Transportation Commission (Commission) requesting designation as an Eligible Telecommunications Carrier (ETC) under the Communications Act of 1934¹ and WAC 480-123-030.
- 2 Consistent with new federal guidance, on April 11, 2012, Telrite filed an amendment to the Original Petition with the Commission stating that it would offer Lifeline and Link Up services, which are federal Universal Service Fund supported services.² The Universal Service Fund subsidizes monthly and initial connection charges for qualified low-income households.³

¹ 47 U.S.C. § 214 (e)(2) (2012).

² Telrite dropped the portion of its proposal to offer Link Up service in its April 11, 2012 amended petition because the FCC Lifeline and Link Up Reform Order eliminated Link Up support on all non-tribal lands. *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*).

³ Throughout these proceedings, the Federal Communications Commission (FCC) was engaged in two rulemaking proceedings that revised the High Cost and Low Income Support programs. The Commission deferred acting on petitions dependent on the outcome of the rulemakings, and in late 2011 and early 2012, the rulemakings culminated in two major orders. *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers*,

- 3 On April 27, 2012, Telrite filed with the Commission a copy of its proposed plan to comply with the new FCC rules governing ETCs. On January 7, 2013, Telrite filed with the Commission its FCC-approved compliance plan.
- 4 On January 29, 2013, Telrite filed with the Commission an amended petition requesting that the Commission designate Telrite as an ETC in parts of the state of Washington (service area) for the purpose of receiving federal low-income universal service support for prepaid wireless services, specifically, Lifeline. In support of its petition, Telrite urges the Commission to find that it is a common carrier entitled to designation as an ETC under the FCC rules governing ETC status.
- 5 On May 31, 2013, Telrite filed with the Commission a supplemental petition requesting an exemption from WAC 480-123-030(1)(d),(f), and (g), which requires an ETC to file a substantive investment plan, wireless network maps, and certification of backup power capabilities because the Company is reselling wireless service from a facility-based wireless company. The supplemental petition also contained a revised list of the exchanges for which the company requests ETC designation.⁴
- 6 The Commission agrees with Telrite that the Company may be designated as an ETC. The Commission also approves granting Telrite an exemption from WAC 480-123-030(1)(d),(f), and (g), subject to the conditions set forth in Appendix A to this order.

DISCUSSION

- 7 Common carriers receiving designation as ETCs under 47 U.S.C. § 214 are eligible to receive subsidies from the federal Universal Service Fund 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.⁵ The Commission will approve petitions from carriers requesting ETC designation if the petition meets the requirements of WAC 480-123-030, the designation

High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (USF/ICC Transformation Order) and Lifeline and Link Up Reform Order, supra, n. 2.

⁴ See Appendix B.

⁵ *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.

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.⁶

8 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). The carrier must:

(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 therefor using media of general distribution.

9 Telrite is capable of providing services supported by federal universal service mechanisms, as defined in 47 C.F.R. 54.101(a), by reselling wireless service from its underlying network carrier. The FCC does not apply the Act’s facilities requirement, as set forth in (A), above, to carriers that seek limited ETC designation just to participate in the Lifeline program on the condition that the FCC approves the carrier’s compliance plan. The compliance plan must demonstrate that the ETC applicant commits to fight waste, fraud, and abuse in the Lifeline program and will adhere to federal Lifeline rules. Telrite seeks ETC designation for the limited purpose of participating in the Lifeline program, and the FCC approved Telrite’s compliance plan on December 26, 2012.⁷ Telrite commits to advertise its Lifeline services.⁸

10 Telrite states that its ETC designation is consistent with the public interest, convenience, and necessity because the FCC has determined that having more than one ETC in a service area increases customer choices and is *per se* in the public interest. In addition, even though Telrite argues that it need not make a separate demonstration of public interest, Telrite states that six other public interest benefits it will provide are:

⁶ WAC 480-123-040.

⁷ See *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), which Telrite filed with the Commission on January 7, 2013.

⁸ January 29, 2013 Amended Petition at 13, ¶¶ 25-26.

- 1) A larger local calling area and expanded coverage area via multiple underlying carriers (as compared to traditional wireline carriers and single wireless carriers);
- 2) The convenience, portability, and security afforded by mobile telephone service;
- 3) The opportunity for customers to control cost by receiving a pre-set amount of flat-rate monthly airtime;
- 4) The ability to purchase additional low-cost usage at multiple convenient locations in the event that included usage has been exhausted;
- 5) The ability of users to use the supported service to send and receive “SMS” or text messages as well as the option to send data and access the public internet; and
- 6) 911 and, where available, enhanced 911 service in accordance with current FCC requirements.⁹

Telrite adds that the inclusion of domestic telephone toll calling as part of its flat-rate offering “allows consumers to avoid the risks of becoming burdened with significant and unexpected per-minute charges for domestic telephone toll and overage charges.”¹⁰

- 11 Telrite requests exemption from three WAC requirements for those carriers designated as ETCs. First, Telrite points out that it does not seek ETC designation for the purpose of participating in the Universal Service Fund high-cost program. WAC 490-123-030(1)(d) 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. Because it is not a high-cost program participant, the substantive plan does not apply to Telrite.¹¹
- 12 Second, Telrite states that it does not own, control, or plan to develop cell sites. Therefore, it should be exempt from (1)(f), which requires cell site maps of geographic service areas.¹²
- 13 Third, Telrite resells facilities owned by AT&T and therefore relies on AT&T’s facilities for backup battery power at each cell site, backup generators at each microwave hub, and backup battery and generators at each switch located in Washington. Therefore, because it relies on AT&T for backup services in emergencies, Telrite argues that it should be

⁹ *Id.* at 15, ¶ 35.

¹⁰ *Id.*

¹¹ Supplemental Petition at 2, ¶ 2(a).

¹² *Id.* ¶ 2(b).

exempt from (1)(g)'s requirement that ETCs demonstrate their ability to remain functional in emergency situations.¹³

FINDINGS AND CONCLUSIONS

- 14 (1) The Commission has jurisdiction over ETCs in Washington and the subject matter of this order under 47 USC 214(e)(2), 47 CFR 54.201(b)-(c) and WAC 480-123-040.
- 15 (2) Telrite is a telecommunications company doing business in the state of Washington. Telrite has demonstrated that it meets the requirements for designation as an ETC because the FCC has approved Telrite's compliance plan and Telrite has committed to advertise the availability of its services and the charges therefor using media of general distribution. Telrite's designation as an ETC will advance the purpose of universal service because Telrite will offer voice telephony services, which facilitate universal service. Telrite has also demonstrated that its designation as an ETC is in the public interest, convenience, and necessity for the numerous reasons set forth in paragraph 10, *infra*.
- 16 (3) Under [WAC 480-120-015](#), the Commission may grant an exemption from any rule in [WAC 480-120](#), if consistent with the public interest, the purposes underlying regulation, and applicable statutes. See also [WAC 480-07-110](#). Telrite has demonstrated that the requirements of WAC 490-123-030(1)(d) does not apply to it because the rule only applies to high-cost program participants and Telrite is not a high-cost program participant. WAC 490-123-030(1)(f) and (g) do not apply to Telrite's proposed operations as an ETC because Telrite will not use its own facilities to provide service; rather, Telrite will rely on an underlying carrier's facilities and backup services.
- 17 (4) This matter came before the Commission at its regularly scheduled meeting on June 13, 2013.

¹³ *Id.* at 2-3, ¶ 2(c).

O R D E R

THE COMMISSION ORDERS:

- 18 (1) Telrite Corporation d/b/a Life Wireless
- 19 (2) Telrite's request for exemption from WAC 490-123-030(1)(d)(f) and (g) is hereby
GRANTED.
- 20 (3) The Commission retains jurisdiction over this matter for purposes of effectuating
this order.

DATED at Olympia, Washington, and effective June 13, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

JEFFREY D. GOLTZ, Commissioner