

FOSTERLAW

UT-160877-P

Jason Danowsky
Attorney at Law

707 West Tenth Street
Austin, Texas 78701
(512) 708-8700
Fax (512) 697-0058
www.mfosterlaw.com

Writer's Email:
jason@mfosterlaw.com

June 22, 2016

Via Overnight Delivery

Steven King, Executive Director and Secretary
Washington Utilities and Transportation Commission
Attn: Records Center
PO Box 47250
Olympia WA 98504-7250

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STATE OF WASH
UTILITY TRAC

RE: Petition of Assist Wireless, LLC for Designation as an Eligible
Telecommunications Carrier and for Waiver of Certain Requirements in WAC
480-123-030

Dear Mr. King:

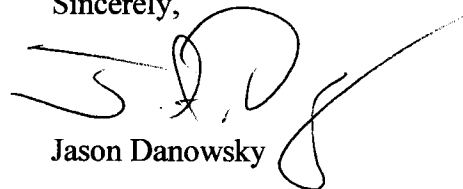
Enclosed for filing please find an original and twelve (12) copies of Assist Wireless, LLC's Petition for Designation as an Eligible Telecommunications Carrier, including five exhibits, as described within the Petition. The individuals designated to receive service on behalf of Assist Wireless in connection with this petition, Mark Foster and Jason Danowsky of FosterLaw, are identified within the petition pursuant to WAC 480-07-150 and other applicable administrative rules.

Additionally, information in this petition is designated confidential pursuant to WAC 480-07-160, as revealing this information would reveal Assist's proprietary business information and compromise Assist's ability to compete fairly without the protections provided by confidentiality.

I have also enclosed an extra copy of this letter to be date stamped and returned to me in the enclosed, self-addressed, postage pre-paid envelope.

I am available to discuss this matter further with you as needed. Please contact me with any questions.

Sincerely,



Jason Danowsky

Encl.

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In The Matter of the Petition of) **DOCKET** _____
)
ASSIST WIRELESS, LLC.)
)
for Designation as an)
Eligible Telecommunications Carrier)
And for Waiver of Certain Requirements)
In WAC 480-123-030)

RECEIVED
STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
2016 JUN 29 AM 10:03

**PETITION FOR LIMITED DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

ASSIST WIRELESS, LLC (“Assist” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”) and Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”), and the rules and regulations of the Public Service Commission of Washington (“Commission”), specifically WAC 480-123-030 and -040, hereby submits this Application for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Washington. Assist seeks ETC designation solely to provide Lifeline service to qualifying Washington consumers; it will not seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of providing service to high-cost areas.

Assist also seeks waiver of the requirements set forth in WAC 480-123-030 (d), (f), and (g). As demonstrated herein, and as certified in Exhibit 1, “Verification,” Assist meets all the statutory and regulatory requirements for designation as an ETC in the State of Washington, including the requirements outlined in the FCC’s *Lifeline and Link Up Reform Order* and the

FCC's recently issued *Lifeline Modernization Order*. Expedient grant of Assist's request, moreover, would advance the public interest because it would enable the Company to commence much needed Lifeline service to low-income Washington residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve this Application for ETC designation.

Sections 214(e)(2) and 254 of the Act expressly authorize the Commission to designate Assist as an ETC. The Company satisfies all of the statutory and regulatory requirements for designation as an ETC in the requested designated service area, including requirements outlined in the FCC's *USF/ICC Transformation Order*,¹ *Lifeline and Link Up Reform Order*,² and *Lifeline Modernization Order*.³ As explained herein, the public interest would be served by granting this petition.

¹ *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a 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. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order with Further notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("*USF/ICC Transformation Order*").

² *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 *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, (hereafter "*Lifeline Modernization Order*.") WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016).

I. INTRODUCTION

Assist is a limited liability company organized under the laws of the State of Texas with its principal offices located at 2402 Gravel Drive, Fort Worth, Texas, 76118.

All correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be addressed to:

Mark Foster, Attorney
FosterLaw
707 West Tenth Street
Austin, TX 78701
(512) 708-8700
(512) 697-0058 (fax)
mark@mfoosterlaw.com

The following company contact information is provided to the Commission for complaints and/or billing dispute issues:

Byron Young
CEO
Assist Wireless, LLC
2402 Gravel Drive
Fort Worth, Texas 76118
(817) 371-5279
byron.young@assistwireless.com

The Company commits to resolve complaints received by the Commission against the Company. The above-identified contact person will work with the Commission's Consumer Protection Division for complaint resolution.

The Company is authorized to do business in the State of Washington. *See Exhibit 2.*

Exhibit 3 introduces to the Commission the key technical and managerial personnel with the knowledge and experience to perform the services for which designation is sought.

II. COMPANY OVERVIEW

Assist is incorporated under the laws of Texas. Assist registered with and was approved by the Washington Secretary of State on July 7, 2014. Its corporate offices are located at 2402 Gravel Drive, Fort Worth, Texas 76118. Assist has been designated as an ETC by the States of Arkansas, Maryland, Missouri, and Oklahoma. The Company has ETC applications pending in California, Illinois, Louisiana, and Texas. The processing of the pending applications in Illinois, Louisiana, and Texas has been suspended while Assist waits for approval of a compliance plan by the FCC as discussed below at footnote 9. In the states where Assist has already been designated as an ETC, service is provided by resale of national carriers' wireless networks. In Washington and California, though, Assist will provide service to its end users via a recently completed combination of facilities that it owns or leases and resale of remaining network elements or services to provide telecommunications services. Assist has never had a lapse in collecting and remitting any public purpose program surcharges of any kind.

Assist has been providing service since January 2011. Assist currently serves approximately [REDACTED]. Assist is successfully providing Lifeline-supported services and has a steadily increasing customer base. Assist owns and operates its own switching facilities, and has back-office and operations support systems (OSS) that are ideally suited to serve low income

subscribers. Assist has invested substantial sums to evaluate, design, develop and integrate these systems.

III. COMMISSION AUTHORITY TO DESIGNATE ETCs

Title 47 U.S.C. § 214(e)(2) of the Act provides that a state commission shall upon request designate a common carrier as an ETC for a service area designated by the state commission. Title 47 U.S.C. § 214(e)(1) provides that an ETC shall be eligible to receive universal service support in accordance with section 254 of the Act and shall, in the service area for which the designation is received, 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, and shall advertise the availability of such services and their costs using media of general distribution. The Federal Communications Commission has promulgated a list of the services or functionalities that shall be supported by federal universal service support mechanisms at 47 C.F.R. § 54.101.

IV. ASSIST SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support." Section 214(e)(2) of the Act authorizes state commissions to designate ETC status for federal universal service purposes and authorizes the Commission to designate wireless carriers

as ETCs.⁴ Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier's services. Applicants also must commit to advertise the availability and rates of such services.⁵ As detailed below, Assist satisfies each of the above-listed requirements, as well as the requirements set forth in WAC 480-123-030.

A. The Company is a Common Carrier

Assist is a common carrier as is required by 47 C.F.R. § 214(e)(1). Per 47 U.S.C. § 153(11), "The term 'common carrier' or 'carrier' means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy. . . ." Assist meets the definition of a person, offers interstate communications by wire and radio, and is a common carrier for hire.

B. The Company Shall Offer Required Services

Assist is able to provide all of the services and functionalities required by Section 54.101(a) and Section 54.202(a) of the FCC's Rules (47 C.F.R. § 54.101(a) and 47 C.F.R. § 54.202(a)) including the following:

⁴ See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) ("*USF Order*").

⁵ See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

1. Voice Grade Access to the Public Switched Telephone Network

Assist provides voice grade access to the public switched telephone network (“PSTN”) through a combination of its own facilities and facilities acquired from other providers as explained in Confidential Exhibit 1 “Assist Wireless, LLC Network Description.”

2. Local Usage

As part of the voice grade access to the PSTN, an ETC must provide minutes of use for local service at no additional charge to end-users. In its *Lifeline Modernization Order*, the FCC created minimum service standards for wireless ETC carriers, beginning at 500 minutes per month as of December 1, 2016.⁶ Additionally, the *Lifeline Modernization Order* requires that Lifeline-supported data plans provide at least 500 megabytes monthly as of December 1, 2016.⁷ Assist will timely comply with the minimum service requirements as set out in the *Lifeline Modernization Order* and, indeed, proposes plans that already comply with the December 1, 2016 deadline.

3. Access to Emergency Services

Assist provides 911 and E911 access for all of its customers to the extent local governments in its service area have implemented 911 or E911 systems. Assist also complies with the FCC’s regulations governing the deployment and availability of E911 compatible handsets.

⁶ *Lifeline Modernization Order* at ¶ 64.

⁷ *Lifeline Modernization Order* at ¶ 65.

4. Toll Limitation for Qualified Low-Income Customers

In the FCC's *Lifeline and Link Up Reform Order*, the FCC stated that toll limitation would no longer be deemed a supported service.⁸ "ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls."⁹ Assist's service is not offered on a distance-sensitive basis, and local and domestic long distance minutes are treated the same. Assist will not seek reimbursement for toll limitation service.

5. Assist Will Advertise the Availability of Supported Services

Assist will advertise the availability of its Lifeline service and the associated charges using media of general distribution, in accordance with the requirements of Section 214(e)(1)(A) of the Communications Act, and Section 54.201(d)(2) of the FCC's Rules (47 C.F.R. §54.201(d)(2)), and HAR § 6-81-9(a)(2). Assist plans to utilize such marketing and outreach efforts as necessary and appropriate to ensure that as many eligible low-income households as possible avail themselves of Assist's wireless Lifeline offerings. Assist understands that it will be competing with other ETCs in Washington, including the incumbent local exchange carriers, to be chosen by consumers to be their Lifeline service provider. Assist will utilize various means for promoting the availability of its Lifeline program. Assist may advertise via newspaper, mail

⁸ See *Lifeline and Link Up Reform Order* at ¶ 367.

⁹ See *Lifeline and Link Up Reform Order* at ¶ 49.

circular, web media, and radio, among other media, and target residential customers with its advertising efforts.¹⁰

The FCC has recently interpreted ETCs' obligation to advertise the availability of Lifeline services. In the recently released *Lifeline Modernization Order*, the FCC acknowledged "the requirements to advertise the availability of the price of service need not necessarily be overly burdensome if implemented properly."¹¹ In the Order, the FCC also states, "Under section 21(e)(1)(B) of the Act, an ETC must, among other requirements, 'advertise the availability of such services and the charges therefor using media of general distribution.' The requirement to advertise the availability and price of service on 'media of general distribution' created ambiguity that, added with other obligations for ETCs, can discourage providers from seeking designation and entering the Lifeline program. This ultimately harms Lifeline-eligible consumers, who are left with few choices among discounted services. It explained that "under section 214(e)(1)(B), 'media of general distribution' is any media reasonably calculated to reach the general public."¹² Various examples provided were flyers, newspapers, local television advertisements, and web advertisements. Assist will utilize one or more of these exemplified means for advertisement in media of general distribution.

¹⁰ See Exhibit 6, "Sample Advertisement."

¹¹ *Lifeline Modernization Order* ¶ 363.

¹² *Id* at ¶ 364.

In addition, Assist will comply with the FCC's revised rules regarding information to be included in marketing materials, including revised rule 54.405(c). Specifically, Assist marketing materials will state, in easily understood language, that: (i) the service is a Lifeline service; (ii) Lifeline is a government assistance program; (iii) the service may not be transferred to someone else; (iv) consumers must meet certain eligibility requirements before enrolling in the Lifeline program; (v) the Lifeline program permits only one Lifeline discount per household; (vi) documentation is necessary for enrollment; and (vii) Assist is the provider of the services. Moreover, Assist's Lifeline application/certification form will state that Lifeline is a federal benefit and that consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program. An example of an advertisement is attached as Exhibit 6.

C. The Company Shall Use Its Own Facilities, Or a Combination of Its Own Facilities and Resale of Another Carrier's Services

Assist does not seek forbearance from the "own facilities" requirement.¹³ Instead, pursuant to 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(d)(1) and in accordance with WAC

¹³ In its *Lifeline Reform Order*, the FCC decided to forbear from applying the federal Communications Act's facilities requirement of section 214(e)(1)(A) to all telecommunications carriers that seek limited ETC designation to participate in the Lifeline program, subject to certain conditions. One of those conditions was: "the carrier must file, and the Bureau must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary." *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (FCC rel. Feb. 6, 2012) ("*Lifeline Reform Order*") at ¶368. Assist did timely file a compliance plan with the FCC. In fact, a total of seventy-eight (78) compliance plans were submitted to the Wireline Competition Bureau ("Bureau"). In the second half of 2012, twenty (20) plans were approved by the Bureau. The last approval was released December 26, 2012. Since that time, and to the best of Assist' knowledge and information, the Bureau has not approved any compliance plan whatsoever and has not provided any public

480-123-030(1)(b) and (c), the Company will use its own facilities or a combination of its own facilities and resale of another carrier's services to offer the services that are supported by Federal universal service support mechanisms as explained in attached Confidential Exhibit 1 "Assist Wireless Own Facilities Description."

V. The Company Shall Provide Service throughout the Designated Service Area

Pursuant to 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d) and in accordance with WAC 480-123-030(1)(b), the Company shall offer the services that are supported by Federal universal service support mechanisms throughout the service area for which designation is received. In addition, the Company commits to provide service throughout its proposed designated service area to all customers making a reasonable request for service.¹⁴ The Company certifies that it will provide service on a timely basis to requesting customers within the Company's service area where Sprint network already reaches the potential customer's premises. (Sprint supplies a portion of the network per contractual agreements with Assist.) The Company certifies that it will provide service within a reasonable period of time, if the potential

explanation as to why over fifty (50) plans – including the plan submitted by Assist – have been allowed to languish with no action. No announcement was ever made as to how or why particular plans were selected for approval or why companies whose pending compliance plans are substantially the same as those approved have not also received approval. Recently, however, there has been a development at the FCC regarding compliance plans. On May 18, 2016, the FCC released a Public Notice requesting that ETCs that remain interested in having the Bureau review and approve their compliance plans file an affirmative statement with the Bureau. Assist did so on May 20, 2016. There is hope that this event signals a willingness by the FCC to process and approve pending compliance plans. Should approval of Assist's compliance plan be received while this application is still under review, Assist reserves the opportunity to amend its application to allow for alternative provisioning as a wireless reseller and as a facilities-based provider as described in Confidential Exhibit 1.

¹⁴ See 47 C.F.R. § 54.202(a)(1)(i).

customer is within the underlying wireless provider's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by: 1) modifying or replacing the requesting customer's equipment; 2) deploying a roof-mounted antenna or other equipment; 3) adjusting the nearest cell tower; 4) adjusting network or customer facilities; 5) reselling services from another carrier's facilities to provide service; or 6) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment. *See* 47 C.F.R. § 54.202(a)(1)(i)(B).

VI. The Company Shall Make Available Lifeline Service

Pursuant to 47 C.F.R. § 54.405 and 47 C.F.R. § 54.411(d) and in accordance with WAC 480-123-030(1)(e), the Company shall make Lifeline service available to qualifying low-income consumers and publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

VII. Service Area for Which Designation Is Requested

Assist is not a rural telephone company as defined in Section 153(37) of the Act.¹⁵ Accordingly, Assist is required to describe the geographic area(s) within which it requests designation as an ETC. In accordance with WAC 480-123-030(1)(a),¹⁶ Assist requests ETC

¹⁵ 47 U.S.C. § 153(37).

¹⁶ "Contents of petition for eligible telecommunications carriers. (1) Petitions for designation as an ETC must contain:(a) A description of the area or areas for which designation is sought." WAC 480-123-030(1)(a).

designation throughout the State of Washington. Exhibit 4 contains a list of the actual Washington exchanges for which the company requests ETC designation.¹⁷

VIII. Emergency Situations

In accordance with 47 C.F.R. § 54.202(a)(2) and WAC 480-123-030(1)(g), Assist has the ability to remain functional in emergency situations. Through its agreements with Sprint Spectrum, L.P. and Sprint Communications Company L.P., Assist provides to its customers the same ability to remain functional in emergency situations as currently provided by Sprint to its own customers, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. As a Tier I carrier, Sprint has redundancies, back-up generator power and an extensive disaster recovery program.

Assist does not own or operate any cell site or microwave hubs. Assist's network utilizes network elements obtained under contractual agreements with Sprint which include the use of Sprint's cell sites and microwave hubs. Spint has implemented state-of-the-art network reliability standards, and Assist and its customers will benefit from their high standards. Assist will have the ability to provide for the rerouting of traffic around damaged facilities and management of traffic spikes resulting from emergency situations through its the third party operators and its

¹⁷ This is the same list of exchanges that described the Service Territory for ETC designation granted by this Commission to Boomerang Wireless, LLC on December 12, 2013 in Docket No. UT-121610.

own switching facility. The requirement in WAC 480-123-030(g) that Assist demonstrate that it has back-up battery power or generators for anything other than its own facilities is not applicable. Accordingly, Assist seeks a waiver of the requirements of subsection (g), as the Commission granted in the *YourTel Order*.¹⁸

IX. Consumer Protection and Service Quality Standards

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.¹⁹ The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. Specifically, in accordance with WAC 480-123-030(1)(h),²⁰ the Company commits to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service as identified and referenced in WAC 480-123-999.²¹

¹⁸ *In the matter of the Petition of YourTel America, Inc.*, Order No. 1, Docket UT-110423 (April 21, 2011) (“*YourTel Order*”).

¹⁹ See *Lifeline and Link Up Reform Order* at page 209; revised 47 C.F.R. § 54.202.

²⁰ “Contents of petition for eligible telecommunications carriers.(1) Petitions for designation as an ETC must contain: (h) Information that demonstrates that it will comply with the applicable consumer protection and service quality standards of chapter 480-120 WAC or, for a wireless carrier, a commitment to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service. Information regarding the version of the CTIA code adopted and where to obtain it is set forth in WAC 480-123-999.”

²¹ “Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows: (1) The Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service. (2) The commission adopts the version in effect on January 1, 2012. (3) This publication is referenced in WAC 480-123-030 (contents of petition for eligible telecommunications carriers). (4) Copies of the CTIA Consumer Code for Wireless Service are available at <http://www.ctia.org>.”

X. Designation of the Company as an ETC Is in the Public Interest

Designation of the Company as an ETC would be in the public interest. Competition furthers the goals of telecommunications service and provides the consumer with a greater choice of providers and service choices, which will in turn result in market-driven prices and quality. Granting the Company ETC status would advance principles of customer service by providing increased competition and is therefore in the public interest. In addition, as a wireless provider, the Company can often serve a larger local calling area than a traditional wireline provider and afford the customer the convenience of telephony mobility.

The designation of the Company as an ETC will offer Lifeline-eligible customers a greater choice of providers for accessing telecommunications services not available to such customers today and should likely expand participation of qualifying customers in the Lifeline program.

The designation of Assist as a competitive ETC will not have a negative impact on the Federal Universal Service Fund ("FUSF"). If Assist's offering does not provide consumer benefits, then it will win no customers and receive no support from the FUSF, in which case no party or consumer is harmed. On the other hand, if Assist's offering provides significant consumer benefits, then it will win customers and other competitors can be expected to respond by improving their service offerings in order to retain customers. Again, no party or consumer is harmed, and consumers get the well-documented benefit of ongoing investment, improvements, and price and service enhancements caused by competition.

In its *Second Lifeline Reform Order* issued June 18 2015, the FCC observed that the best way to increase competition and innovation in the Lifeline marketplace is to increase the number of service providers offering Lifeline service.²² In addition, the FCC solicited comments on ways to increase competition and ease market entry at both the federal and state levels for companies wishing to offer Lifeline services.²³

As provided by the Act, the availability of basic telecommunications services to low-income consumers is critical to the provision of public health, safety, and other services. In addition, the FCC has long acknowledged the benefits to consumers of being able to choose from a variety of telecommunications providers and the resulting variety of telecommunications services they provide.²⁴

The FCC reaffirmed this position when it stated that “the potential growth of the fund associated with high-cost support distributed to competitive ETCs” is not relevant to carriers seeking support associated with the low-income program.²⁵ The FCC also recognized that the total effect of additional low-income-only ETC designations would have a minimal impact on the fund when it stated that “any increase in the size of the fund would be minimal and would be outweighed by the benefit of increasing eligible participation in the Lifeline program, furthering

²² *Id.* At ¶121.

²³ *Id.* At ¶127-128.

²⁴ See e.g., *Specialized Common Carrier Services*, 29 FCC 2d 870 (1971).

²⁵ Application of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. §214(e)(1)(A) and 47 C.F.R. § 54.201(i), CC Docket No. 96-45, Order, 20 FCC Red 15095 (2005) (*TracFone Forbearance Order*) at ¶ 17.

the statutory goal of providing access to low-income consumers.”²⁶ Additionally, the FCC has stated that it “believe[s] the best way to [increase competition and innovation] is to increase the number of service providers offering Lifeline services.”²⁷

It is also important to recognize that in the case of Lifeline support, an ETC receives FUSF support *only* for the customers it obtains. In the scenario where a competitive ETC obtains a Lifeline customer from another ETC, only the “capturing” ETC provides Lifeline discounts, and as a result, only the “capturing” ETC receives support reimbursement.

In addition, all providers are required to contribute a portion of the interstate revenues received from their customers to the federal Universal Service Fund. Assist will make such contributions in accordance with current federal regulations. As such, approving Assist as an ETC may actually result in new contributions to the FUSF that were previously nonexistent.

Approval of Assist's ETC Application will serve the public interest by increasing participation of qualified consumers in the Lifeline program in Washington. It will also increase the number of carriers eligible for FUSF support in the requested service area, thereby proportionately increasing the amount of FUSF dollars available to Washington consumers. Granting ETC status to Assist will contribute to more Washington residents receiving Lifeline, thereby increasing the amount of FUSF dollars flowing into and thereby benefiting Washington residents. In short, Washington residents will get more of their money back.

²⁶ *TracFone Forbearance Order*, at ¶ 17.

²⁷ June 18 Order, ¶121.

XI. 5-Year Plan

As set forth in the *Lifeline and Link Up Reform Order*, a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC.²⁸

XII. Local Usage Plan

FCC rules no longer require an applicant for ETC designation to demonstrate that it offers a local usage plan that is “comparable” to the plan offered by the ILEC in the relevant service territory.²⁹ Assist will comply with the FCC’s minimum service standards as defined in its recent *Lifeline Modernization Order*.³⁰

XIII. Summary of Offering

Assist has the ability to provide all services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the Federal Communications Commission Rules (47 C.F.R. § 4.101(a)) throughout Washington. Upon designation, Assist will provide Lifeline service to qualifying low-income households requesting these services in Washington in

²⁸ See *Lifeline and Link Up Reform Order* at ¶ 386 (“Second, we amend section 54.202 to clarify that a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC. In the USF/ICC Transformation Order and FNPRM, the Commission included a new requirement in section 54.202, requiring a common carrier seeking to be designated as an eligible telecommunications carrier by the Commission to submit a five-year plan describing proposed network improvements and upgrades. Given that Lifeline-only ETCs are not receiving funds to improve or extend their networks, we see little purpose in requiring such plans as part of the ETC designation process.”).

²⁹ See 47 C.F.R. § 54.202(a)(4).

³⁰ *Lifeline Modernization Order* at ¶¶64-65.

accordance with 47 C.F.R. § 4.202(a)(1). As demonstrated herein, Assist meets all of the statutory and regulatory requirements for designation as an ETC and for participation in the Washington Lifeline and federal Lifeline programs. Assist respectfully requests that the Commission process and grant this application expeditiously so that qualified Washington residents can benefit from the high-quality services the Company intends to offer.

A. All Plans

All wireless plans will include a free handset and the following Custom Calling features:

- (1) Caller ID;
- (2) Call Waiting;
- (3) Call Forwarding;
- (4) 3-Way Calling; and
- (5) Voicemail.

No activation fee will apply to Lifeline Washington customers. There is no additional charge for toll calls. Calls to 911 are free. Calls to customer service by dialing 611 are free. Wireless handsets will be delivered at no charge to qualifying customers and service will be activated upon certification of the customer for Lifeline. Assist will comply with the *Lifeline Modernization Order's* new handset requirements.³¹ Assist will use all low-income universal service support to offer service plans with no monthly recurring charge, thus ensuring that the consumer receives 100% of all universal service support funding for which the Company will seek reimbursement from the Universal Service Fund necessary to provide the free minutes of

³¹ See *Lifeline Modernization Order* at ¶ 378.

airtime above. Assist will also offer plans with increased voice, text, and data, and Assist will use all low-income universal service support to discount these plans, thus ensuring that the consumer receives 100% of all universal service support funding for these plans as well.

B. Individual Lifeline Plans

Assist initially proposes to offer two different Lifeline assisted plans to Washington Lifeline consumers, including a 500-minute/500 text plan that is supported entirely by Lifeline. Exhibit 5, "Proposed Plans," summarizes the Company's retail wireless rate plans to which Assist seeks to apply the Lifeline discount.

Assist is aware of the FCC's April 27, 2016 Order³² to modernize the FCC's Lifeline program to make broadband more affordable for low-income consumers. Assist plans to fully comply with the FCC's order and will modify its offered Lifeline plans as necessary in a timely fashion to reflect the Order's requirements and timeline.

XIV. Equal Access

Pursuant to amended 47 C.F.R § 54.202, ETC applicants are no longer required to acknowledge that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.

³² *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016).

XV. Consumer Certification

Consistent with 47 C.F.R. § 54.409, the Company shall obtain a consumer's signature on a document under penalty of perjury that the consumer receives benefits under an approved assistance program or that the consumers' household meets applicable income requirements; and that the consumer will notify the Company if the consumer ceases participation in a program or his income criteria exceeds approved thresholds. The Company shall obtain this certification annually and shall put in place quality control mechanisms to ensure that only eligible consumers are participating in Lifeline.

XVI. Assist Will Comply with Certification and Verification Requirements

Section 54.410 of the FCC's Rules requires ETCs to certify and verify a Lifeline customer's initial and continued eligibility, Assist will certify and verify consumer eligibility in accordance with the FCC's requirements, as revised in the *Lifeline and Link Up Reform Order*³³ and *Lifeline Modernization Order*,³⁴ and Assist fully commits to complying with all eligibility, certification, and verification requirements established by this Commission.

XVII. Verification

In accordance with WAC 480-123-030(2), the Company submits this petition in the manner required by RCW 9A.72.085. See Exhibit 1, "Verification."

³³ See *Lifeline and Link Up Reform Order* at section VI.C.2(a-b).

³⁴ See *Lifeline Modernization Order* at Section III.D.

XVIII. Assist Requests Waiver of Inapplicable Commission Requirements.

Assist requests waiver of the requirements of WAC 480-123-030(d). This requirement applies to carriers that seek high-cost support to fund investments to their networks. Assist is requesting ETC designation in Washington solely for the purpose of participating in the Lifeline program. It is not seeking designation for the purpose of participating in USF's high-cost program. Based on the foregoing, Assist has no basis for filing an investment plan and should be exempt from (d).

Assist also requests waiver of the requirements of WAC 480-123-030(f). While Assist does use its own facilities in combination with Assist's resale of services from underlying carriers, it does not own, control, nor plan to develop cell sites. As Assist does not have access to the Sprint's maps of geographic service areas showing the location of the cell sites, Assist respectfully requests waiver of the requirement to provide coverage maps.

Finally, as discussed above in Section VIII, Assist also requests a waiver of WAC 480-123-030(g).

XIX. Conclusion

WHEREFORE, PREMISES CONSIDERED, Assist respectfully requests that the Commission designate Assist Wireless, LLC, as an ETC for the provision of low income support on a wireless basis throughout Assist's Service Area; that the Commission grant this petition in accordance with WAC 480-123-040; that the Commission waive the hearing for this matter if the Company and any other parties to this proceeding achieve a settlement; that the Commission

grant all other requested waivers herein; that the Commission send appropriate notice of the Final Order to the Federal Communications Commission; and that the Commission issue such other orders as are deemed necessary in this matter.

Respectfully submitted,

FosterLaw

707 West 10th Street

Austin, TX 78701

(512) 708-8700

(512) 697-0058/fax

By: 

Mark Foster

Texas Bar No. 07293850

mark@mfoosterlaw.com

Jason Danowsky

Texas Bar No. 24092318

jason@mfoosterlaw.com

Entire document is claimed confidential per WAC 480-07-160

CONFIDENTIAL EXHIBIT 1

ASSIST WIRELESS, LLC NETWORK DESCRIPTION