

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET UT-101640
)	
i-wireless, LLC)	ORDER 02
)	
Petitioner,)	
)	ORDER RENEWING ELIGIBLE
For an Exemption from WAC 480-)	TELECOMMUNICATIONS CARRIER
123-030(1)(d), (f), and (g), and)	DESIGNATION AND EXEMPTION
Designation as an Eligible)	FROM RULE WITH AMENDED
Telecommunications Carrier)	CONDITIONS
.....)	

BACKGROUND

- 1 On August 20, 2013, i-wireless, LLC (i-wireless or Company) filed an application with the Washington Utilities and Transportation Commission (Commission) to renew its designation as an Eligible Telecommunications Carrier (ETC) under the Communications Act of 1934¹ (Communications Act) and WAC 480-123.
- 2 The Commission originally designated i-wireless as an ETC on September 13, 2012, allowing the Company to provide qualified Washington consumers with Lifeline support, which is part of the federal Universal Service Fund (USF) supported services and subsidizes qualified low-income household monthly charges for basic telephone services and non-recurring connection charges.² In that order, the Commission granted the Company exemptions from the provisions of WAC 480-123-030 (1)(d), (f), and (g), which require the company to file a substantive investment plan, digital map of wireless facilities and coverage, and certification regarding back-up power requirements. The Commission also imposed 21 conditions on i-wireless’s ETC designation, including a requirement that the Company seek renewal of its ETC status within one year.
- 3 In support of its application, i-wireless states that it satisfied the requirements of WAC 480-123-030 in its original petition and that, except for provisions for which a waiver was granted, its operations remain otherwise unchanged. The Company further states that it has complied with all 21 conditions the Commission imposed on the Company in Order 01 and provides a summary explanation of its compliance for each individual condition. Finally, i-wireless affirms that the circumstances underlying the

¹ 47 U.S.C. § 214 (e)(2) (2012).

² Order 01, Order Granting Exemption From Provisions of WAC 480-123-030(1)(d), (f), and (g), and Designation as an Eligible Telecommunications Carrier (September 13, 2012).

Commission's grant of exemption from WAC 480-123-030(1)(d), (f), and (g) are unchanged.

- 4 i-wireless states that its service continues to advance the purposes of universal service set forth in 47 U.S.C. § 254. i-wireless states that its designation as an ETC remains in the public interest because ETC service benefits low-income household in Washington.³
- 5 Commission Staff (Staff) agrees that i-wireless complied with the terms and conditions of Order 01 and also complied with the new rules implemented by the FCC's (Federal Communication Commission) 2012 Lifeline and Link Up Reform Order,⁴ primarily strengthening eligibility check and one-Lifeline-per-household policy, enforcing deactivation upon 60 consecutive days of non-usage, certifying all its Lifeline customers on an annual basis and providing results of annual recertification to the FCC and relevant state commissions.
- 6 Staff supports i-wireless's application with certain new or revised conditions that better reflect rule changes at the federal level and the deletion of some previously imposed conditions. Staff believes that monitoring and rule enforcement in the today's Lifeline market obviates the need for the commission's one-year interim condition. The Company agrees to these revised conditions on its ETC status, as enumerated in Appendix A.
- 7 Staff notes that the FCC issued a Notice of Apparent Liability For Forfeiture (NAL) to i-wireless, LLC on November 1, 2013.⁵ The NAL alleges that between October 2012 and April 2013, i-wireless was reimbursed for 1,684 alleged intra-company duplicate customer enrollments totaling \$24,358 in overpayments from the Universal Service Administrative Company, none of which involved the Company's activities in the state of Washington. The FCC proposed a forfeiture of over \$8.8 million dollars. On January 10, 2014, i-wireless filed a response challenging the NAL findings and the matter is now pending at the FCC.⁶ Staff suggests that because there is no reasonable estimate as to

³ i-wireless Application to Renew at 7.

⁴ *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*").

⁵ *In the Matter of i-wireless, LLC.*, Notice of Apparent Liability for Forfeiture, File No.EB-IHD-13-00010656, FCC 13-148 (rel. November 1, 2013).

⁶ i-wireless' response to the FCC states that even if every alleged duplicate turned out to be an actual duplicate, i-wireless still would have been 99.74% effective in screening for duplicates. *i-wireless, LLC's Response to the Notice of Apparent Liability for Forfeiture, Corrected Public Version*, File No.EB-IHD-13-00010656 (January 10, 2014), p. 25.

when the FCC will resolve the NAL, the commission should not wait on the result of the NAL to decide on i-wireless' ETC renewal. This issue does not change staff's evaluation of i-wireless' ETC Renewal petition.

DISCUSSION

- 8 Common carriers receiving designation as ETCs under 47 U.S.C. § 214 are eligible to receive subsidies from the federal Universal Service Fund. 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. The Commission will approve applications from carriers requesting ETC designation if the application 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.⁷
- 9 The Commission agrees with Staff that the Company has demonstrated that it continues to meet the criteria for designation as an ETC set forth in Order 01, including offering all services supported by the federal universal service support mechanisms set forth in 47 U.S.C. § 254. i-wireless should also continue to be exempt from WAC 480-123-030(1)(d),(f), and (g) because i-wireless is not a high cost fund recipient and because the Company relies on other carrier facilities. i-wireless has also demonstrated compliance with the 21 conditions set forth in Appendix B to Order 01.
- 10 The Commission also agrees with Commission Staff that the amended conditions set forth in Appendix A to this order are appropriate, given the FCC's recent order requiring a forbearance compliance plan and adoption of more stringent requirements for the federal Lifeline program.
- 11 The Commission concurs with Staff that the Company's ETC renewal application should not be delayed pending FCC resolution of the NAL. The Commission recognizes the importance of accurate customer eligibility records and we are concerned that the Company may have some issues with its current practices, although no such problems have been identified in Washington. However, the Commission will consider i-wireless' renewal petition on the record now before us. We may choose to revisit the Company's ETC status once the FCC finalizes this matter.
- 12 The Commission agrees with Commission Staff that the Company may continue to be designated as an ETC and is entitled to continued exemptions from WAC 480-123-030(1)(d),(f), and (g), subject to the amended conditions set forth in Appendix A to this order.

⁷ WAC 480-123-040.

FINDINGS AND CONCLUSIONS

- 13 (1) The Commission has jurisdiction over ETCs in Washington and the subject matter of this order under 47 U.S.C. § 214(e)(2), 47 C.F.R. 54.201(b)-(c) and WAC 480-123-040.
- 14 (2) i-wireless is a telecommunications company doing business in the state of Washington as an Eligible Telecommunications Carrier. i-wireless has demonstrated that it continues to meet the requirements for designation as an ETC, subject to the conditions set out in Appendix A to this Order.
- 15 (3) i-wireless's continued designation as an ETC will advance the purpose of universal service because the Company will offer voice telephony services, which facilitate universal service.
- 16 (4) i-wireless has also demonstrated that its designation as an ETC is in the public interest because its services will benefit low-income customers.
- 17 (5) This matter came before the Commission at its regularly scheduled meeting on May 29, 2014.

ORDER

THE COMMISSION ORDERS:

- 18 (1) i-wireless, LLC's request for continued designation as an ETC in service areas specified in Appendix B is hereby GRANTED, subject to the conditions set forth in Appendix A.
- 19 (2) i-wireless LLC's request for continued exemption from WAC 480-123-030(1)(d),(f) and (g) is hereby GRANTED, subject to the conditions set forth in Appendix A.
- 20 (3) The Commission retains jurisdiction over this matter for purposes of effectuating this order.

DATED at Olympia, Washington, and effective May 29, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

JEFFREY D. GOLTZ, Commissioner

APPENDIX A

**Washington State Conditions on Designation of i-wireless, LLC
as an Eligible Telecommunications Carrier**

1. i-wireless, LLC (i-wireless or Company) shall utilize federal default eligibility criteria only, i.e., not utilizing Washington Telephone Assistance Program eligibility criteria that are not on the federal list.
2. i-wireless shall file with the Commission any future changes to its rates, terms, conditions or Lifeline customer application form at least one day prior to the effective date of the change.
3. The information on i-wireless's rates, key terms and conditions, e.g., return policy, usage definition, refill methods, annual recertification requirement, and customer service contact, shall be provided in a package sent or given to Lifeline customers after enrollment in i-wireless's Lifeline program, as well as at i-wireless's official Lifeline website.
4. For the rate plans free of charge to customers, i-wireless must offer at least one plan with a minimum of 250 minutes per month. The Company may invoke Condition No. 2 only for the purpose of increasing the number of minutes or enhancing the features in the Lifeline plan, but not decreasing the number of minutes.
5. i-wireless shall deactivate a Lifeline account if the customer has no usage for 60 consecutive days pursuant to 47 C.F.R. § 54.407(c)(2). No fewer than eight business days before deactivation, i-wireless shall send the customer a written notice by mail about the potential deactivation and ways to avoid unwanted deactivation. The customer shall have a 30 day grace period from the deactivation date to reactivate the Lifeline account by incurring "usage" as defined in 47 C.F.R. § 54.407(c)(2). When a customer reactivates the account, i-wireless must deposit the minutes the customer is entitled to for the grace period.
6. On a quarterly basis, i-wireless shall provide the number of Lifeline customers that it enrolls each month. i-wireless shall also report the number of deactivated Lifeline customers each month by service plan and the reasons for deactivation, e.g., no usage for 60 consecutive days, annual verification unsuccessful, or voluntary exit. Quarterly reports shall be filed with the Commission no later than 30 days after the end of each quarter.
7. i-wireless shall respond within 30 days to Commission Staff's information requests on i-wireless's Lifeline operations, including but not limited to Lifeline customers' usage patterns and Lifeline customer records.

8. i-wireless shall cooperate with the commission and the Department of Social and Health Services (DSHS) to work out a procedure to verify i-wireless Lifeline customers' eligibility. i-wireless shall maintain access to DSHS's online query database to verify the eligibility of Lifeline applicants who qualify based on their participation in Medicaid, Supplemental Nutrition Assistance Program, Supplemental Security Income and Temporary Assistance for Needy Families. This condition shall be required until the national Lifeline eligibility database is fully functional.
9. i-wireless must not deduct airtime minutes for calls to customer care made from the customer's handset by dialing 611. i-wireless shall explicitly state the policy of free 611 calls in its Lifeline service agreements. i-wireless may require the customer to call the toll-free customer care number from another phone if necessary to resolve technical issues related to the handset or its programming.
10. i-wireless shall have DSHS audit its Washington Lifeline customers' eligibility (including program eligibility and duplication with other Lifeline providers) at least once a year. By January 31 of each year, i-wireless shall provide DSHS the complete record of its Washington Lifeline customers who qualify based on their participation in Medicaid, Supplemental Nutrition Assistance Program, Supplemental Security Income and Temporary Assistance for Needy Families in the prior calendar year. The records must have all the necessary information and be in an electronic format required by DSHS. After DSHS notifies i-wireless of the results of the review, i-wireless must take appropriate measures to either correct the customer records or stop providing services to ineligible customers and report the resolutions to the commission and DSHS within 60 days of the DSHS notice. This condition shall be required until the national database for Lifeline customer eligibility is fully functional.
11. i-wireless shall provide the commission a copy of its annual Lifeline Re-certification results within 30 days it files with the Universal Service Administration Company (USAC) each year.
12. i-wireless 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 i-wireless, the commission's Consumer Protection and Communications Section, the Washington State Office of the Attorney General, and the Federal Communications Commission (FCC). This report shall not include calls from customers with regard to general inquiries such as account balance, additional purchases, service availability or technical support. The Commission reserves the

- right to revoke i-wireless's ETC designation if i-wireless fails to provide reasonable quality of service.
13. i-wireless 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.
 14. i-wireless shall comply with rules on cessation of business as specified in WAC 480-120-083.
 - a. Prior to cessation of business, i-wireless shall make arrangements with its underlying carriers to provide minutes already sold to customers under the same terms and conditions it has with the customers, or provide refunds to the existing customers.
 - b. i-wireless shall provide written notice to the following persons at least 30 days in advance of cessation of service:
 - i. The Commission;
 - ii. The state 911 program;
 - iii. Each of its customers;
 - iv. The national number administrator.
 - c. The notice to the Commission and the state 911 program must include the same information required by WAC 480-120-083(3).
 - d. The notice to the customers must include the same information required by WAC 480-120-083(4).
 - e. The notice to the national number administrator must include the same information required by WAC 480-120-083(7).
 - f. i-wireless shall file with the Commission at least 30 days in advance of its cessation of business and request the relinquishment of its ETC designation in Washington.
 15. i-wireless shall collect and maintain necessary records and documentation to ensure its compliance with the applicable FCC and Commission requirements, including existing requirements and any future modifications. The records and documentation shall be provided to Commission Staff upon request.

16. i-wireless shall cooperate with Commission Staff on phone number conservation issues and shall comply with 47 C.F.R. § 52.
17. i-wireless shall comply with all applicable federal and Washington state statutes and regulations, including E911 tax contributions.
18. i-wireless shall file with the Commission of the results of any audits (including in-depth data validations) or investigations on the Company's Lifeline operation in any states or jurisdictions conducted by the FCC or USAC within 14 calendar days from the receipt of results. The Company must also notify the Commission of any ongoing investigation that has resulted in monetary or administrative penalty (e.g., suspension of Universal Service Fund reimbursement, suspension of Lifeline program operation) within 14 calendar days of the occurrence of such events. To the extent the Company deems the above information confidential, the Company may submit the notification on a confidential basis consistent with Commission rules.