

Agenda Date: May 29, 2014
Item Number: A5

Docket: UT-101640
Company Name: i-wireless, LLC

Staff: Roger Hahn, Regulatory Analyst
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William Weinman, Assistant Director - Telecommunications

Recommendation

Renew the designation of i-wireless, 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 modified conditions in Attachment 2.

I. Background

On August 20, 2013, i-wireless, LLC (i-wireless or company) filed a petition with the Washington Utilities and Transportation Commission (UTC or commission) to renew designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the Act), and WAC 480-123-030. i-wireless was designated as an ETC for the purpose of receiving Low Income Support from the federal Universal Service Fund on September 13, 2012. The commission granted the exemption from provisions of WAC 480-123-030(1)(d),(f) and (g), which requires the company to file a substantive investment plan, a digital map of wireless facilities and coverage, and a certification on back-up power capabilities. The commission imposed 21 conditions on i-wireless's ETC designation to make sure that the designation will be consistent with public interest. Condition One provided that the designation is for an interim period of one year and the company needs to seek renewal of its ETC status before the end of one year.

i-wireless started its Lifeline operation in Washington in the fourth quarter of 2012. It offers multiple rate plans to Lifeline as well as non-Lifeline customers. It has approximately 600 Lifeline customers in Washington.

The company states that it has complied with all conditions in the commission order and that the company's provision of Lifeline service in the state is in the public interest.¹

II. 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 Fund.² By rule, WAC 480-123-040, the commission has the 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

¹ ETC Renewal Petition, Sections IV and VI.

² 47 U.S.C. § 214(e)(2). See also 47 C.F.R. § 54.201(c).

conditions.³

Staff finds that i-wireless has complied with the commission's order and qualifies for ETC designation pursuant to 47 U.S.C. § 214(e)(2). It offers the services that are supported by federal universal service support mechanisms. It advertises the availability of such services and the charges using media of general distribution.

The commission imposed conditions on i-wireless's interim ETC designation to ensure that the designation is consistent with the public interest. Staff agrees that i-wireless has complied with all conditions imposed by the commission in the 2012 ETC designation order.

i-wireless has also complied with the new rules implemented by the FCC's 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. The company also abided by the conditions specified in the Commission's ETC designation order, including using federal Lifeline eligibility criteria, utilizing the online query database provided by the Washington State Department of Social and Health Services (DSHS) to establish its Lifeline applicants' eligibility,⁵ submitting customer data to the DSHS at least annually for eligibility and duplicate check, and paying Washington State Enhanced 911 taxes.

Based on these events, staff proposes a modified condition list in Attachment 1, as the revised conditions better reflect the rule changes at the federal level. The commission imposed the same conditions on Budget PrePay, Inc.'s ETC renewal.⁶ Staff believes that monitoring and rule enforcement in the today's Lifeline market obviates the need for the commission's one-year interim condition.

³ *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.

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 The company uses the Department of Social and Health Services' online query system to verify Lifeline applicants who qualifies based on their participation in Medicaid, Supplemental Nutrition Assistance Program (formerly Food Stamps), Supplemental Security Income and Temporary Assistance for Needy Families. For applicants who want to qualify based on other federal programs or on the income criteria, the company reviews relevant proof documents.

⁶ *In the Matter of the Petition of Budget Prepay, Inc. for Exemption from WAC 480-123-030(1)(d),(f) and (g); and Renewing Designation as an Eligible Telecommunications Carrier with Amended Conditions for the Purpose of Receiving Lifeline Support from the Federal Universal Service Fund*, Order 02 (February 14, 2014), UT-111570.

The FCC issued a Notice of Apparent Liability For Forfeiture (NAL) to i-wireless, LLC on November 1, 2013.⁷ The NAL alleged based on Universal Service Administrative Company's in-depth data validation (IDV's) audits of eight states i-wireless violated Section 54.407, 54.409 and 54.410 of the FCC rules. i-wireless was reimbursed for 1,684 alleged intra-company duplicate customer enrollments between October 2012 and April 2013 that totaled \$24,358 in overpayments from USAC. The FCC proposed a forfeiture of over \$8.8 million dollars. i-wireless has not had any IDV's conducted for the state of Washington. Since this issue is pending at the FCC and there is no reasonable estimate as when it will come to closure, staff recommends that the commission not wait on the result of the NAL to decide on i-wireless' ETC renewal. i-wireless communicated this issue in a timely manner with staff in November, 2013. i-wireless filed a response on January 10, 2014 to challenge the NAL findings and the matter is now pending at the FCC.⁸ This issue does not change staff's evaluation of i-wireless ETC Renewal petition.

III. Conclusion

i-wireless has complied with all federal and state statutes and rules on ETC designation as well as the conditions that the commission imposed in 2012. Staff believes renewal of its ETC designation is consistent with public interest. The company will continue to use federal Lifeline support to offer affordable wireless services to low-income households.

Staff recommends the commission issue an order to continue to grant the company the exemption from WAC 480-123-030(1)(d),(f) and (g) and renew the designation of i-wireless, 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 modified conditions in Attachment 2.

⁷ *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).

⁸ 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.