



- 3) The opportunity for customers to control cost by receiving a pre-set amount of flat-rate monthly airtime at no charge with the ability to purchase additional low-cost usage at flexible and affordable amounts in the event that included usage has been exhausted; and
- 4) 911 and, where available, enhanced 911 service in accordance with current FCC requirements.<sup>5</sup>

Q Link also points out that granting its petition would expand consumer choice by increasing the number of ETCs in Washington and increasing the amount of USF money coming into Washington.<sup>6</sup>

3 Q Link proposes to resell wireless service from Sprint-Nextel (Sprint), a facility-based wireless company. Therefore, Q Link's petition also seeks an exemption from the following provisions of WAC 480-123-030(1):

- WAC 480-123-030(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. Q Link 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.<sup>7</sup>
- WAC 480-123-030(1)(f) requires submission of cell site maps of geographic service areas. Q Link states that it does not own, control, or plan to develop cell sites, but instead will rely on those owned and operated by Sprint. Therefore, Q Link requests an exemption from this filing requirement.<sup>8</sup>
- WAC 480-123-030(1)(g) requires ETCs to demonstrate the ability to remain functional in emergency situations. As noted above, Q Link resells services provided by Sprint and therefore relies on Sprint'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. Again, Q Link argues that it should be exempt from this filing requirement.<sup>9</sup>

4 Commission Staff (Staff) agrees with Q Link 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

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<sup>5</sup> *Id.* at 21.

<sup>6</sup> *Id.* at 22-23.

<sup>7</sup> *Id.* at 19.

<sup>8</sup> *Id.* at 19-20.

<sup>9</sup> *Id.* at 20.

on other similarly situated Lifeline ETCs seeking to operate in Washington. These include compliance filings, customer communications, customer eligibility audits with the Department of Social and Health Services, and quarterly reports to be filed with the Commission. A complete list of these conditions is set forth in Appendix A to this order.

- 5 Staff also agrees with and recommends granting Q Link's request for exemptions from the filing requirements of WAC 480-123-030(1)(d), (f), and (g).

### DISCUSSION

- 6 Common carriers receiving designation as ETCs under 47 U.S.C. § 214 are eligible to receive subsidies 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.<sup>10</sup> 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.<sup>11</sup>

- 7 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 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
- (B) Advertise the availability of such services and the charges therefor using media of general distribution.

- 8 We agree with Staff that Q Link 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 Sprint, its underlying network carrier. If the FCC approves a carrier's compliance plan, the FCC does not apply the Act's "own facilities" requirement to carriers that seek limited ETC designation solely to participate in the Lifeline program. 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. Here,

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<sup>10</sup> *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.

<sup>11</sup> WAC 480-123-040.

Q Link seeks ETC designation for the limited purpose of participating in the Lifeline program, and the FCC approved Q Link's compliance plan on August 8, 2012.<sup>12</sup> Further, Q Link commits to advertise its Lifeline services.<sup>13</sup>

9 Staff is correct that certain additional conditions should be imposed on Q Link 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 Q Link's operations for strict adherence to all ETC requirements.

10 We also agree that Q Link 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 Q Link is not seeking to participate in the federal high-cost support program. WAC 480-123-030(1)(f) and (g) also do not apply to Q Link's proposed operations as an ETC because the Company will not use its own facilities to provide service; rather, Q Link will rely on an underlying carrier's facilities and backup services. The Company's request for exemption from these portions of WAC 480-123-030 should be granted.

### FINDINGS AND CONCLUSIONS

11 (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.

12 (2) Q Link Wireless LLC is a telecommunications company seeking to do business in the state of Washington. Q Link meets the requirements for designation as an ETC because the FCC has approved Q Link's Compliance Plan and Q Link has committed to advertise the availability of its services and the charges therefor using media of general distribution. Q Link's designation as an ETC will advance the purpose of universal service because Q Link will offer voice telephony services, which facilitate universal service. Q Link has also demonstrated that its designation as an ETC is in the public interest.

13 (3) The Commission may grant an exemption from any of its rules if consistent with the public interest, the purposes underlying regulation, and applicable statutes.

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<sup>12</sup> *Wireline Competition Bureau Approved the Compliance Plans of Birch Communications, Boomerang Wireless, IM Telecom, Q Link Wireless and Tag Mobile*, FCC Public Notice, WC Docket Nos. 09-197 and 11-42, DA 12-1286 (rel. August 8, 2012).

<sup>13</sup> Petition at 13.

Q Link has demonstrated that the requirements of WAC 490-123-030(1)(d), (f), and (g) should not apply to the Company and that granting the requested exemption is in the public interest and consistent with applicable laws and rules.

- 14 (4) This matter came before the Commission at its regularly scheduled meeting on December 12, 2013.

**ORDER**

**THE COMMISSION ORDERS:**

- 15 (1) Q Link Wireless LLC's request for designation as an ETC is hereby GRANTED, subject to the conditions set out in Appendix A and limited to the list of Washington exchanges set forth in Appendix B to this order.
- 16 (2) Q Link Wireless LLC's request for exemption from WAC 480-123-030(1)(d), (f), and (g) is hereby GRANTED.
- 17 (3) The Commission retains jurisdiction over this matter for purposes of effectuating this order.

DATED at Olympia, Washington, and effective December 12, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

JEFFREY D. GOLTZ, Commissioner

## APPENDIX A

### Washington State Conditions on Designation of Q Link Wireless LLC as an Eligible Telecommunications Carrier

1. Within 30 days of approval of its ETC designation in Washington and prior to offering Lifeline services, Q Link must make a compliance filing for approval by the commission containing the following:
  - a. Q Link's Lifeline rate plans, terms and conditions. The rates, terms and conditions shall include all provisions that apply to the Lifeline services offered by Q Link in Washington state and detailed procedures explaining how customers can participate in a particular Lifeline plan.
  - b. Q Link's proposed language to be used in all advertising of Lifeline services and on its websites. The language shall include information directing customers to the Washington State Office of the Attorney General for complaints regarding any Lifeline service issues.
  - c. Q Link's Lifeline Customer Application Form.

Commission staff shall review Q Link's compliance filing and recommend to the commission whether it should be approved or rejected within ten business days. Q Link shall not offer Lifeline services until the commission has approved its compliance filing.

2. Q Link shall file with the commission any future changes to its rates, terms, or conditions at least one day prior to the effective date of the change.
3. The information on Q Link'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 Q Link's Lifeline program, as well as at Q Link's official Lifeline website.
4. Q Link shall provide Lifeline customers with the choice of all other rate plans available to its regular customers.
5. For the rate plan free of charge to customers, Q Link 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.
6. Q Link 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, Q Link 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." When a customer reactivates the account, Q Link must deposit the minutes the customer is entitled to for the grace period.
7. On a quarterly basis beginning with the quarter ending on March 31, 2014, Q Link shall provide the number of Washington Lifeline customers that it enrolls each month. Q Link shall also report the number of deactivated Washington 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.
  8. Q Link shall respond within 30 days to commission staff's information requests on Q Link's Lifeline operations, including but not limited to Lifeline customers' usage patterns and Lifeline customer records.
  9. Q Link shall cooperate with the commission and the Department of Social and Health Services (DSHS) to work out a procedure to verify Q Link Lifeline customers' eligibility. Q Link shall obtain 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.
  10. Q Link must not deduct airtime minutes for calls to customer care made from the customer's handset by dialing 611. Q Link shall explicitly state the policy of free 611 calls in its Lifeline service agreements. Q Link 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.
  11. Q Link shall have DSHS audit its Washington Lifeline customers' eligibility at least once a year. Beginning in 2015, by January 31 of each year, Q Link shall provide DSHS with its complete Washington Lifeline customer records of the prior calendar year. The records must have all the necessary information and be in an electronic format required by DSHS. After DSHS notifies Q Link of the results of the review, Q Link 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 accountability database for duplicate Lifeline claims and the national Lifeline eligibility database are fully functional.

12. Q Link shall provide the commission a copy of its annual Lifeline Re-certification results within 30 days it files with the Universal Service Administration Company each year.
13. Q Link 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 Q Link, 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 to Q Link with regard to general inquiries such as account balance, additional purchases, service availability or technical support. The commission reserves the rights to revoke Q Link's ETC designation if Q Link fails to provide reasonable quality of service.
14. Q Link 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.
15. Q Link shall comply with rules on cessation of business as specified in WAC 480-120-083.
  - a. Prior to cessation of business, Q Link 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. Q Link 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. Q Link 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.
16. Q Link 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.
17. Q Link shall cooperate with commission staff on phone number conservation issues and shall comply with 47 C.F.R. § 52.
18. Q Link shall comply with all applicable federal and Washington state statutes and regulations, including E911 tax contributions.

## APPENDIX B

### Q Link Wireless LLC Areas for Eligible Telecommunications Carrier Designation

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
ASOTIN TELEPHONE CO.	
	ANATONE
	ASOTIN
CENTURYTEL OF COWICHE, INC.	
	COWICHE
	RIMROCK
	TIETON
CENTURYTEL OF INTER-ISLAND, INC.	
	BLAKELY ISLAND
	EAST SOUND
	FRIDAY HARBOR
	LOPEZ
CENTURYTEL OF WASHINGTON, INC.	
	AMES LAKE
	ARLETTA
	ASHFORD
	BASIN CITY
	CARNATION
	CATHLAMET
	CHENEY
	CHINOOK
	CONNELL
	COULEE CITY
	CURTIS
	EDWALL-TYLER
	ELTOPIA
	EUREKA
	FALL CITY
	FORKS
	GIG HARBOR
	HARRINGTON
	HUMPTULIPS
	KAHLOTUS
	KETTLE FALLS

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
	KINGSTON
	LAKEBAY
	LIND
	MATHEWS CORNER
	MCCLEARY
	MEDICAL LAKE
	MESA
	MONTESANO
	MORTON
	NORTH BEND
	OCEAN PARK
	OCOSTA
	ODESSA
	ORTING
	OTHELLO
	PACKWOOD
	PUGET ISLAND
	RANDLE
	REARDAN
	RITZVILLE-BENGE
	SOUTH PRAIRIE
	SPANGLE
	SPRAGUE
	TWISP
	VADER
	VASHON
	WASHTUCNA
	WILSON CREEK
ELLENSBURG TELEPHONE CO.	
	ELLENSBURG
FRONTIER COMMUNICATIONS NORTHWEST INC.	
	ACME-DEMING-WHATCOMCTY
	ALGER
	ANACORTES
	ARLINGTON
	BENTON CITY
	BIG LAKE
	BLAINE-BIRCH BAY-GTLD
	BOTHELL

<b><u>INCUMBENT LOCAL EXCHANGE CARRIER</u></b>	<b><u>EXCHANGE</u></b>
	BURLINGTON
	CAMAS-WASHOUGAL
	CASHMERE
	CHELAN
	CONCRETE
	CONWAY
	CUSTER-GTLD
	DEMING-WHATCOMCTY
	EDISON
	ENTIAT
	EVERETT
	EVERSON-GTLD
	FAIRFIELD
	FERNDALE-GTLD
	GARFIELD
	GEORGE
	GRANITE FALLS
	GRAYLAND
	HALLS LAKE
	KENNEWICK
	KIRKLAND
	LA CONNER
	LATAH
	LAUREL-WHATCOMCTY
	LEAVENWORTH
	LYMAN-HAMILTON
	LYNDEN
	MANSFIELD
	MAPLE FALLS
	MARBLEMOUNT
	MARYSVILLE
	MONROE
	MOUNT VERNON
	NACHES
	NEWPORT
	NILE
	OAK HARBOR
	PALOUSE
	PULLMAN

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
	QUINCY
	RICHLAND
	RICHMOND BEACH
	ROCKFORD
	ROSALIA
	SEDRO WOOLLEY
	SEDRO WOOLLEY-CONTEL
	SILVER LAKE
	SKYKOMISH
	SNOHOMISH
	SOAP LAKE
	STANWOOD
	STEVENS PASS
	SULTAN
	SUMAS-GTLD
	TEKOA
	WATERVILLE
	WENATCHEE
	WESTPORT
HOOD CANAL TELEPHONE CO.	
	UNION
INLAND TELEPHONE CO.	
	DEWATO
	PRESCOTT
	ROSLYN
	UNION TOWN
KALAMA TELEPHONE CO.	
	KALAMA
LEWIS RIVER TELEPHONE CO., INC.	
	LA CENTER
MASHELL TELECOM, INC.	
	EATONVILLE
MCDANIEL TELEPHONE CO.	
	MOSSYROCK
	ONALASKA
	SALKUM
PIONEER TELEPHONE CO.	
	ENDICOTT
QWEST CORPORATION	

<b><u>INCUMBENT LOCAL EXCHANGE CARRIER</u></b>	<b><u>EXCHANGE</u></b>
	ABERDEEN-HOQUIAM
	AUBURN
	BAINBRIDGE ISLAND
	BATTLE GROUND
	BELFAIR
	BELLEVUE
	BELLINGHAM-GTLD
	BLACK DIAMOND
	BREMERTON
	BUCKLEY
	CASTLE ROCK
	CENTRALIA
	CHEHALIS
	CLE ELUM
	COLFAX
	COLVILLE
	COPALIS
	DEER PARK
	DES MOINES
	EASTON
	ELK
	ENUMCLAW
	EPHRATA
	GRAHAM
	GREEN BLUFF
	HOODSPORT
	ISSAQUAH
	KENT
	LIBERTY LAKE
	LONGVIEW-KELSO
	LOON LAKE
	MAPLE VALLEY
	MOSES LAKE
	NEWMAN LAKE
	OLYMPIA
	OTHELLO
	PATEROS
	PORT ANGELES
	PORT LUDLOW

<b><u>INCUMBENT LOCAL EXCHANGE CARRIER</u></b>	<b><u>EXCHANGE</u></b>
	PORT ORCHARD
	PORT TOWNSEND
	PUYALLUP
	RENTON
	RIDGEFIELD
	ROCHESTER
	ROY
	SEATTLE
	SEQUIM
	SHELTON
	SILVERDALE
	SPOKANE
	SPRINGDALE
	SUMNER
	TACOMA
	TACOMA WAVERLY
	VANCOUVER
	WAITSBURG
	WARDEN
	WINLOCK
	YAKIMA
ST. JOHN TELEPHONE CO.	
	ST JOHN
TENINO TELEPHONE CO.	
	TENINO
TOLEDO TELEPHONE CO., INC.	
	TOLEDO
UNITED TELEPHONE – NORTHWEST	
	CHIMACUM-CENTER
	COLUMBIA
	DALLESFORT
	GOLDENDALE
	GRANDVIEW
	GRANGER
	HARRAH
	HOOD CANAL
	LYLE
	MABTON-BICKLETON
	MATTAWA

<b><u>INCUMBENT LOCAL EXCHANGE CARRIER</u></b>	<b><u>EXCHANGE</u></b>
	PATERSON
	PORT ANGELES-GARDINER
	POULSBO
	PROSSER
	ROOSEVELT
	STEVENS
	TOPPENISH-ZILLAH
	TROUT LAKE
	WAPATO
	WHITE SALMON
	WHITE SWAN
	WHITSTRAN
	WILLARD
WESTERN WAHKIAKUM COUNTY TELEPHONE CO.	
	GRAYS RIVER
	NASELLE
WHIDBEY TELEPHONE CO.	
	POINT ROBERTS
	SOUTH WHIDBEY
YCOM NETWORKS, INC.	
	YELM