

[Service Date: June 6, 2012]

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

In the Matter of the Petition of)
)
YOURTEL AMERICA, INC.,) DOCKET UT-110423
)
) YOURTEL AMERICA, INC.'S
) APPLICATION TO RENEW
For an Exemption from WAC 480-123-) DESIGNATION AS AN ELIGIBLE
030(1)(d), (f) and (g), and Designation as) TELECOMMUNICATIONS
an Eligible Telecommunications Carrier) CARRIER
)
)
)

YourTel America, Inc. (“YourTel”) respectfully requests that the Commission renew its designation as an Eligible Telecommunications Carrier (“ETC”) in accordance with the Commission’s Order Granting the Exemption from Provisions of WAC 480-123-030(1)(d), (f) and (g), and Designation as an Eligible Telecommunications Carrier issued in this docket on June 16, 2011.

BACKGROUND

- 1 On March 2, 2011, YourTel America, Inc. (YourTel or Company) filed a petition with the Washington Utilities and Transportation Commission (UTC or Commission) requesting designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214 (e)(2) of the Communications Act of 1934, as amended (the Act), and Washington Administrative Code (WAC) 480-123-030. YourTel sought ETC designation in Washington for the purpose of receiving the federal Lifeline and Link Up support, which are parts of the federal Universal Service Fund (USF) and subsidize qualified low-income households' monthly charges for basic telephone services and the non-recurring connection charges, respectively.
- 2 YourTel filed four amendments to its original petition to describe an additional Lifeline plan for qualified residents in tribal areas and clarify details of its commitment to E911 provision and customer verification procedures.
- 3 The Commission considered YourTel's petition as amended at its open meeting on June 16, 2011 and issued Order 01 on that date.
- 4 The Commission Staff recommended to the Commission that YourTel be subject to the same conditions imposed on TracFone Wireless, Inc. in UT-093012 and on Virgin Mobile USA, L.P. in UT-100203. Both TracFone and Virgin Mobile also provide prepaid wireless service to Lifeline customers in Washington. The Commission imposed the TracFone/Virgin Mobile conditions on YourTel in Order 01, Appendix B. Condition 1 in Appendix B states:

YourTel America, Inc. (YourTel or Company) designation as an Eligible Telecommunications Carrier (ETC) shall be for an interim period of one year from the effective date of the Commission's Order approving such designation, subject to Commission review. Before the end of one year after the effective date of the Order, YourTel may seek to renew its designation pursuant to WAC 480-123-030 through -040. YourTel's designation for the interim period shall continue until the Commission's decision to the designation.

- 5 In accordance with this condition, YourTel files this Application seeking renewal of its ETC designation. As demonstrated below, YourTel has complied with all conditions of Appendix B. Therefore, YourTel requests the Commission approve its Application and issue an order renewing YourTel's ETC designation.

APPLICATION

I. YourTel Meets the Requirements of WAC 480-123-030

- 6 WAC 480-123-030 sets forth the information that must be contained in a petition for designation as an ETC. YourTel provided all of the information in compliance with this rule in its initial Petition, as supplemented and amended, filed in this docket. YourTel incorporates these filings herein. The Commission found in Order 01 that this petition met the requirements of WAC 480-123-030, except for provisions for which a waiver was granted.

- 7 Since the Commission issued Order 01 the FCC moved to amend section 54.101(a) of its rules to define "voice telephony service" as the service supported by the federal universal

service mechanisms. In doing so the FCC removed directory assistance and operator services, among other things, from the list of supported services, and eliminated separate support for toll limitation service. To avoid disruption to consumers of previously designated ETCs, however, the FCC set July 1, 2012 as the effective date of amended rule 54.101 for Lifeline-only ETCs in the service areas for which they were designated prior to December 29, 2011. Nevertheless, as demonstrated in its ETC petition to this Commission, YourTel clearly meets the requirement of providing voice telephony service as that term is defined in the amended section 54.101(a).¹

8 In its Lifeline Reform Order² the FCC affirmed that only carriers that provide voice telephony using their own facilities will be deemed to meet the requirements of section 214(e)(1) of the Communications Act; however, the FCC granted “blanket forbearance” from the “own facilities” requirement to all carriers seeking limited ETC designation to offer Lifeline services, provided the carrier obtain approval of a forbearance compliance plan by the Wireline Competition Bureau.³ Lifeline-only ETCs that were designated as ETCs prior to December 29, 2011 are required to submit their compliance plans by July 1, 2012.⁴ Although YourTel meets the current standard, our of an abundance of caution,

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 Servicer Support, Developing an Unified Intercarrier Compensation Redime, 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, Order on Reconsideration, FCC 11-189 (rel. December 23, 2011) (*USF/ICC Transformation Order on Reconsideration*).

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*, Report and Order and Further Notice of Proposed Rulemaking, Docket Nos. 96-45, 03-109, 11-42, and 12-23, January 31, 2012 (rel. February 6, 2012) (*Lifeline Reform Order*).

³ *Lifeline Reform Order*, at ¶¶ 368-391.

⁴ *See Lifeline Reform Order*, at ¶ 380.

it submitted its Compliance Plan to the FCC on March 5, 2012, a Revised Compliance Plan on March 16, 2012. Any subsequent revisions will be filed with The Washington State Utilities and Transportation Commission. In its Lifeline Reform Order the FCC determined that support for Link-Up service would no longer be available to Lifeline-only ETCs. Consistent with that dictate YourTel no longer seeks Link-Up support for its Washington Lifeline customers. In all other respects, YourTel's petition remains the same as the one approved by the Commission in Order 01. Accordingly, there is no reason to find that YourTel does not satisfy WAC 480-123-030.

9 In its Lifeline Reform Order the FCC determined that all ETCs must provide the information detailed in Appendix C: Certification Requirements for Lifeline Subscribers on their initial and annual Lifeline certification forms. UTC Staff has requested that YourTel provide a copy of that form in this filing and YourTel hereby provides that as Appendix 1.

II. YourTel Has Complied With All Conditions of Appendix B to Order 01.

10 Appendix B to Order 01 lists the Washington State conditions on the Designation of YourTel as an ETC. YourTel complies with each of those conditions, referenced here as "Condition #_____."

11 **Condition #1:** States that YourTel's designation as an ETC shall be for an interim period of one year and that YourTel may seek to renew its designation pursuant to WAC 480-123-030 through -040. This Application is being filed in accordance with Condition 1.

12 **Condition #2:** Requires YourTel to make a compliance filing within 30 days of the Commission's designation of YourTel as an ETC and that YourTel shall not offer Lifeline services until the Commission has approved its compliance filing. YourTel submitted its Compliance Filing on July 5, 2011 and revised compliance filings on July 11 and 14, 2011. In a letter dated July 21, 2011, from David W. Danner, Executive Director and Secretary, the Commission approved YourTel's compliance filing.

13 **Condition #3:** Requires YourTel to 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. YourTel agrees to this condition. In continued compliance with this requirement, YourTel hereby submits a revised copy of its Washington Terms and Conditions reflecting updates as a result of the FCC Lifeline Reform Order as Appendix 2.

14 **Condition #4:** Requires YourTel to provide information on its rates, terms and in a welcome package sent to Lifeline customers after enrollment in YourTel's Lifeline program, as well as at YourTel's official Lifeline websites. YourTel complies with this condition by providing information regarding rates, terms and conditions in a welcome package sent to Lifeline customers and by posting that information on its website at <http://www.yourtelamerica.com>.

15 **Condition #5:** Requires YourTel to provide Lifeline customers with the choice of all other rate plans available to regular customers. YourTel complies with the condition by offering its Lifeline customers in Washington with a choice of three options all of which include the features, functionalities and service associated with the three non-Lifeline YourTel plans .

16 **Condition #6:** Requires YourTel to offer a plan with a minimum of 250 free minutes each month. YourTel offers this plan.

17 **Condition #7:** Requires YourTel to deactivate a YourTel account if the customer has no usage for 60 consecutive days. In addition, Condition 7 provides that no fewer than eight business days before deactivation, YourTel shall send the customer a written notice by mail about the potential deactivation and ways to avoid unwanted deactivation and that the customer shall have a 30-day grace period from the deactivation date to reactivate the YourTel account to restore the minutes accrued during the 60-day non-usage period and the 30-day grace period. YourTel has a non-usage procedure in place that complies with this condition.

18 **Condition #8:** Requires YourTel to file quarterly reports 30 days after the end of each quarter that provide the number of Lifeline customers by service plan that it enrolls each month and the number of deactivated Lifeline customers each month by service plan and the reasons for deactivation. YourTel has filed quarterly reports on October 28, 2011, January 30, 2012 and April 30, 2012.

19 **Condition #9:** Requires YourTel to respond within 30 days to Commission Staffs information requests on YourTel Lifeline operations. YourTel has timely responded to all requests for information from Commission Staff.

20 **Condition #10:** Requires YourTel to cooperate with the Commission and the Department of Social and Health Services ("DSHS") to work out a procedure to verify YourTel 's Lifeline operations. YourTel has timely responded to all requests for

information from Commission Staff. YourTel has and will continue to work closely with DSHS.

21 **Condition #11:** Requires YourTel to not deduct airtime minutes for calls to customer service made from the customer's handset by dialing 611. All YourTel Washington Lifeline customers may contact customer service by dialing 611 from their handsets without having any minutes deducted.

22 **Condition #12:** Requires YourTel to file with the Commission its complete Lifeline customer records of the prior calendar year by March 31. YourTel provided these records to DSHS for review on March 30. After verification with Staff, YourTel filed its 2011 Lifeline Customer Records Report on April 10, 2012.

23 **Condition #13:** Requires YourTel to provide the Commission a copy of its annual Lifeline Verification survey results that it files with the Universal Service Administrative Company ("USAC") by August 31 of each year. On August 23, 2011, YourTel provided these survey results to the Commission.

24 **Condition #14:** Requires YourTel to 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. YourTel filed this report on March 30, 2012.

25 **Condition #15:** Requires YourTel to cooperate with the Washington State Enhanced 911 Program (E911) and all Public Safety Answering Points on E911 issues and, 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.

YourTel remains willing to comply with this requirement, although YourTel is not aware of any E911 issues that it needs to address and has not received any request to designate a representative to serve as a member of the Washington E911 Advisory Committee or its Communications Sub-committee.

26 **Condition #16:** Requires YourTel to participate in the Washington State E911 Program’s “*What’s Your Location*” public information campaign if the E911 Program requests the participation of wireless carriers. YourTel remains willing to comply with this requirement; however, to date the E911 Program has not requested YourTel to participate in the campaign.

27 **Condition #17:** Requires YourTel to collaborate with the Washington State E911 Program to test the compatibility of its handsets with the new Emergency Service Information Network in Washington, including supplying handsets representative of YourTel’s proprietary software and technical assistance should call delivery discrepancies be discovered. YourTel remains willing to comply with this requirement.

28 **Condition #18:** Requires YourTel to comply with rules on cessation of business as specified in WAC 480-120-083. YourTel will comply with WAC 480-120-083.

29 **Condition #19:** Requires YourTel to collect and maintain the necessary records and documentation to insure its compliance with the applicable FCC and Commission requirements, including existing requirements and any future modifications. YourTel collects and maintains all records required by applicable state and federal requirements and will provide them to the Commission Staff upon request.

30 **Condition #20:** Requires YourTel to cooperate with Commission Staff on phone
number conservation issues and shall comply with 47 C.F.R. § 52. YourTel will comply
with this condition.

31 **Condition #21:** Requires YourTel to comply with all applicable federal and
Washington State statutes and regulations, including Enhanced 911 tax contributions.
YourTel will continue to comply with this condition.

32 Based on the foregoing, YourTel has complied with all conditions set forth in
Appendix B to Order 01.

**III. Renewal of YourTel's ETC Designation Advances the Purpose of Universal
Service and is in the Public Interest.**

33 WAC 480-123-040 provides: "The commission will approve a petition for designation as
an ETC 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." In Order 01, the Commission found that granting
YourTel ETC status is "consistent with the public interest, the purposes underlying
regulation, and applicable statutes." (11 21) There is no change in circumstances in the
past year to warrant a different conclusion.

CONCLUSION

34 YourTel meets this Commission's requirements for designation as an ETC and
has complied with all conditions in the Appendix B, Order 01. Furthermore, renewal of
YourTel's designation as an ETC is in the public interest because YourTel's Lifeline

service offers low-income consumers a free wireless telecommunications option. As recognized by the Commission, YourTel's current Lifeline offering is in the public interest. YourTel requests the Commission to approve its Application and issue an order renewing YourTel's designation as an ETC.

RESPECTFULLY SUBMITTED this 6th day of June, 2012.

Ater Wynne LLP

By 

Arthur A. Butler, WSBA # 4678
601 Union Street, Suite 1501
Seattle, WA 98101-3981
Phone: 206.623.4711
Fax: 206.623.8406
aab@aterwynne.com

Attorneys for YourTel America, Inc.