

# HURT, CROSBIE & MAY PLLC

William C. Hurt, Jr.  
Scott A. Crosbie  
William H. May, III +  
Michael D. Kalinyak  
Steven Lenarz

THE EQUUS BUILDING  
127 WEST MAIN STREET  
LEXINGTON, KENTUCKY 40507

Telephone - (859) 254-0000  
Facsimile - (859) 254-4763

Matthew R. Malone  
Aaron D. Reedy  
James L. Deckard ++  
Jacob K. Michul

*+Also licensed in Indiana*  
*++Also licensed in Tennessee*

November 16, 2011

*Via Hand-Delivery*

Mr. Jeff DeRouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

RECEIVED

NOV 16 2011

PUBLIC SERVICE  
COMMISSION

Re: Petition of True Wireless, LLC for ETC Status and Petition for  
Confidentiality

Dear Mr. DeRouen:

Attached please find and accept for filing an original and ten copies of True Wireless' Petition for ETC Status and Petition for Confidentiality in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the attached additional copies.

Should you have any questions or concerns please do not hesitate to call.

Very truly yours,  
HURT, CROSBIE & MAY, PLLC



Matthew Malone

C: File

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

Petition of True Wireless LLC for Designation  
as an Eligible Telecommunications Carrier in  
Kentucky

Case No. \_\_\_\_\_

**PETITION OF TRUE WIRELESS LLC FOR CONFIDENTIALITY**

True Wireless, LLC (“True Wireless”) respectfully submits this Petition for Confidentiality (“Petition”) requesting confidentiality for certain information submitted to the Kentucky Public Service Commission (“Commission” or “PSC”). In particular, True Wireless asks for confidentiality for its facilities data submitted as Exhibit A to its Petition for Designation as an Eligible Telecommunications Carrier (“Application), which is being filed with the PSC today. True Wireless makes this request pursuant to 807 KAR 5:001, Section 7 and KRS 61.878(1).

**BACKGROUND**

By this Petition, True Wireless requests that the Commission grant confidential protection to the redacted portions of True Wireless’ facilities data, the unredacted versions of which are being filed under seal. This information discloses the services True Wireless provides over its network facilities and the services provided via private commercial arrangements with other carriers.

**GROUND FOR PETITION**

The Kentucky Open Records Act exempts from disclosure certain commercial information, including records generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that

disclosed the records. KRS 61.878(1)(c). True Wireless provides pre-paid wireless services targeting low income consumers. This market is highly competitive, as consumers can choose among many pre-paid wireless carriers for affordable services.

If True Wireless were forced to publicly disclose all of its network information, competitors would be easily able to copy the entirety of True Wireless' facilities-based solution to providing pre-paid wireless ETC services. In particular, since facilities-based ETC service providers must offer the FCC's required nine supported services in part over their own facilities, the disclosure of how True Wireless has accomplished this would provide a roadmap for True Wireless' competitors to deploy identical solutions. This would allow True Wireless' competitors to avoid spending the time and money that True Wireless spent in developing its services-and-facilities solution. True Wireless' confidential disclosures relating to its network and private commercial agreements used to provide its services are therefore highly confidential trade secret information subject to protection under the Kentucky Open Records Act.

The Commission has taken the position that the statute and the regulation require the party requesting confidentiality to demonstrate 1) actual competition and 2) the likelihood of competitive injury if the information is disclosed. Those requirements are easily met here.

**1. True Wireless Faces Actual Competition**

True Wireless competes or plans to compete against other Kentucky Eligible Telecommunications Carriers ("ETCs") like Tracfone, Virgin Mobile, Tennessee Telephone Service, LLC d/b/a Freedom Communications USA, LLC, Smart Connections, Inc., and Absolute Home Phones, Inc., all of whom have been granted ETC status by this Commission. True Wireless also faces stiff competition nationally in the provision of ETC low income services from providers such as Tracfone and Virgin Mobile.

In light of this competition, disclosure of the information would hurt True Wireless in the marketplace because it would allow competitors to employ the same successful business model True Wireless has without the costs and time True Wireless spent to develop the model. These costs and time are detailed below in Section 2.B. As demonstrated in that Section, the explanation of how True Wireless provides its service is inextricably intertwined with True Wireless' network facilities and business model. Thus, any public disclosure of this information would be a boon to True Wireless competitors, who could then emulate True Wireless network, service strategy, and business plan without the investments of time and money True Wireless has made.

In addition to the cost issue, disclosure of the information could allow True Wireless' competitors to injure True Wireless through misleading dissemination of the information to potential customers. Consumers choose providers based on a variety of factors, including their subjective impression about the business models of particular carriers. Public disclosure of proprietary information could easily cause competitive injury to True Wireless if the information were to be used selectively by a competitor. Such selective disclosure could take the form of drawing negative comparisons between True Wireless' business model and the "pure reseller" business model.

**2. True Wireless Will Likely Suffer Competitive Injury if the Information is Disclosed**

As a certified provider of wireless ETC services in three states (with applications in other states pending), True Wireless' business information is particularly sensitive and in need of protection from this Commission. As True Wireless faces intense competition in the low income telecommunications services market both inside and outside of Kentucky, disclosure of the information would likely cause True Wireless serious competitive injury. The specific

injury is: the thousands of hours True Wireless spent defining and honing its business model and plan would be published for all of its competitors to review and copy without making any similar investments of their own. This would allow True Wireless' competitors to save time and money by copying True Wireless' highly efficient business model, allowing those competitors to compete for and serve the same customers as quickly and cost-effectively as True Wireless does. This in turn would allow those competitors to capture a greater share of the low income services market, causing a corresponding decline in True Wireless' revenues.

**A. Release of True Wireless' Information Would Meet the Kentucky PSC Standard of Likely Competitive Injury**

The Commission has long recognized the highly competitive nature of wireless services as a reason to provide confidential treatment to information submitted to the Commission by wireless service providers. *See, e.g., In the Matter of ACC of Kentucky LLC's Petition for Confidential Protection*, Case No. 99-1 84 (January 24, 2000) (confidential treatment for intrastate gross revenue reports). More recently, the Commission extended blanket protection for all wireless carriers' access line count information submitted with monthly TRS and TAP reports. *Petition of the Kentucky Commission on the Deaf and Hard of Hearing*, Case No. 2007-00464 (April 16, 2009).

In *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766 (Ky. 1995), the Kentucky Supreme Court held that financial information submitted by General Electric Company with its application for investment tax credits was not subject to disclosure simply because it had been filed with a state agency. The Court applied the plain meaning rule to the statute, reasoning that “[i]t does not take a degree in finance to recognize that such information concerning the inner workings of a corporation is ‘generally recognized as confidential proprietary.’” *Id.* at 768. The same analysis applies here.

True Wireless is disclosing information about its facilities and business partners, and this information is capable of being misinterpreted and deliberately misused. Specifically, True Wireless' competitors could review this confidential information and disseminate it to True Wireless' subscribers in a way that mischaracterizes it and criticizes True Wireless for having a CLEC-style network architecture and business instead of an ILEC or ILEC reseller network and business. In other words, competitors might allege that ILEC or ILEC resellers are better or more reliable because the ILEC has a huge legacy network, while True Wireless has a smaller network. A competitor of True Wireless, whether an ILEC or a wireless carrier, could therefore use this confidential services and facilities information to disparage True Wireless or attempt to paint True Wireless' operations in a false light.

Additionally, as explained above, public disclosure of the confidential information would allow True Wireless' competitors to save time and money by mimicking True Wireless' efficient and effective business model. True Wireless' competitors would then be able to compete for and serve the same customers as quickly and cost-effectively as True Wireless does, taking away customers from True Wireless and harming True Wireless' business.

**B. True Wireless Has Invested Intensive Time and Effort Developing its Particular Business Model and Network Architecture, Disclosure of Which Would Constitute Irreparable Competitive Injury**

As a privately held, entrepreneurial business, True Wireless needed to ensure that its network would be cost effective both from a capital and operating expense perspective. True Wireless focused on taking advantage of technological developments in network design to create a nimble network core. The time and financial resources invested in this network design effort were substantial. Unlike legacy telecommunications infrastructure, which has changed little over the past several decades, the new generation of equipment presented compatibility challenges for

True Wireless in order to assemble the right network elements to create a reliable and functional network. True Wireless worked with different vendors to review various pieces of specialized equipment designed to reduce operating costs and increase carrying capacity. Choosing the right equipment and network integration plan to ensure a successful design and business case was also a time intensive process.

As a result of this time and labor intensive process, True Wireless has developed a facilities-based network solution which makes True Wireless ideally suited to serve lower revenue subscribers. The time and investment True Wireless made allows True Wireless to deploy services quickly in a given area with minimal investments of time and money. True Wireless' ability to formulate and build this cost-effective network was crucial to ensure its operating margins were sustainable for serving low income customers almost exclusively. This formula was the result of substantial effort, planning, and expense, and as such is properly regarded as a highly confidential trade secret. Disclosure of this confidential information would provide our competitors with a roadmap to True Wireless' success while simultaneously harming True Wireless' market position.

#### **SPECIFIC ISSUES FOR WHICH TRUE WIRELESS SEEKS CONFIDENTIALITY**

True Wireless only seeks confidential treatment for the technical and proprietary elements of its detailed descriptions of the full extent of True Wireless equipment used to provide specific supported services, and the identities of the third party vendors for wireless spectrum and related wireless services. The redacted portions of the document True Wireless is submitting with this description constitute confidential commercial information because True Wireless' competitors in the telecommunications industry would obtain significant operational information from the discussion of True Wireless' services-and-facilities ETC solution

contained in the confidential document filed in response to this request. This facilities information is True Wireless' business model and network architecture, which were the result of the time and labor intensive process described above in Section 2.B. The release of such information to the general public would place True Wireless at a competitive disadvantage in the Kentucky telecommunications marketplace. Specific information regarding the details of True Wireless's facilities is not generally known and is not readily discernable to third parties by any proper means.

Disclosure of this information to True Wireless' competitors would permit these entities to gain a significant competitive advantage over True Wireless by copying key aspects of True Wireless' business plans and operations. The arrangement of facilities used by ETCs serving the participants in the Low Income program can vary significantly from ETC to ETC.

Furthermore, True Wireless has taken all appropriate and legal measures to ensure that its facilities information is disseminated only to those with a need to know, and that all measures have been taken to protect this information from disclosure when it is required to be filed in a public forum. Accordingly, this information should not be subject to disclosure to the public.

### **CONCLUSION**

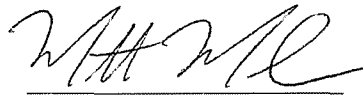
True Wireless is entitled to confidential protection for the information at issue and asks that the Commission confirm that it will not be disclosed. If the Commission disagrees, however, it must hold an evidentiary hearing (a) to protect the due process rights of True Wireless and (b) to supply the Commission with a complete record to enable it to reach a decision with regard to this matter. *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591,592-94 (Ky. Ct. App. 1982). True Wireless further requests that it be afforded the right to withdraw the information at issue if the Commission disagrees



that it should be kept confidential. *Sprint Communications Company, L.P.*, Case No. 2010-00012, Letter from Jeff Deroun, Executive Director, Kentucky Public Service Commission to John Hughes (February 12, 2010).

Lastly, in accordance with the provisions of 807 KAR 5:001(7), True Wireless is filing with the Commission one (1) set of the confidential Exhibit with the information highlighted and marked confidential and ten (10) sets with the confidential information redacted.

Respectfully submitted,



Danielle Frappier  
Chris Fedeli

Bill May  
Matt Malone

DAVIS WRIGHT TREMAINE LLP  
1919 Pennsylvania Ave. NW  
Suite 800  
Washington, DC 20006-3401  
Phone: (202) 973-4242

HURT, CROSBIE & MAY PLLC  
The Equus Building  
127 West Main Street  
Lexington, Kentucky 40507  
Phone: (859) 254-0000

*Counsel for True Wireless, LLC*

November 16, 2011

**Exhibit A**

**Redacted Facilities Description Document**

*CONFIDENTIAL INFORMATION REDACTED FOR PUBLIC INSPECTION*

True Wireless owns a switch, which it uses to route its Lifeline customers' calls to directory assistance and operator services, two of the supported services.<sup>1</sup> In addition, True Wireless leases [REDACTED] from a third party, over which True Wireless transmits that same traffic. In combination with True Wireless' purchase of certain wireless services from large wireless carriers (which would be [REDACTED] for its operations in Kentucky, if approved), this arrangement satisfies the FCC requirement for ETCs to provide service using, at least in part, their networks facilities, which includes a combination of their own network facilities and the network facilities of another carrier.

By way of example, when a True Wireless wireless customer dials directory assistance, this traffic is routed over the PSTN, [REDACTED] and then True Wireless' switch and its dedicated leased [REDACTED] facilities for ultimate termination to True Wireless' call center. This same call routing applies to operator services calls as well. Calls to operator services are routed over the PSTN, [REDACTED] and then onto True Wireless' switch and dedicated [REDACTED] facilities for ultimate termination to True Wireless' call center.

---

<sup>1</sup> This switch is also used to route its customers' calls to True Wireless' call center.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

NOV 16 2011

PUBLIC SERVICE  
COMMISSION

Petition of True Wireless LLC for Designation  
as an Eligible Telecommunications Carrier in  
Kentucky

Case No. \_\_\_\_\_

**PETITION OF TRUE WIRELESS LLC FOR DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER IN KENTUCKY**

True Wireless, LLC (“True Wireless” or “Company”) hereby submits this Application, pursuant to 47 U.S.C. § 214(e) of the Communications Act of 1934, as amended (the “Act”), and the Kentucky Public Service Commission’s (“Commission”) rules and regulations for designation as an Eligible Telecommunications Carrier (“ETC”) throughout non-rural services areas in Kentucky, as described in more detail below in Section IV, (the “Designated Service Area”) for the purpose of receiving federal Low Income universal service support, *i.e.*, Lifeline and Link Up. As explained herein, the public interest would be served by granting this Application, thereby enabling True Wireless to advance universal service by serving the basic and advanced communications needs of low income consumers. In support of this Application, True Wireless states as follows:

**I. Introduction**

True Wireless is a wireless telecommunications carrier serving the basic telephone needs of consumers. The Company currently serves a substantial number of Low Income customers through its authorized ETC wireless operations in Arkansas, Texas, and Oklahoma and will soon launch operations in Maryland. True Wireless is a Texas limited liability company authorized to do business in Kentucky throughout the requested Designated Service Area. A copy of the

Company's Kentucky Secretary of State Certificate to do business in Kentucky is attached as

**Exhibit B.** True Wireless' address and telephone number is:

True Wireless, LLC  
3124 Brother Blvd. #104  
Bartlett, TN 38133  
(901) 415-1754

True Wireless' attorneys of record in this matter are:

Danielle Frappier  
Chris Fedeli  
Davis Wright Tremaine LLP  
1919 Pennsylvania Ave. NW, Suite 800  
Washington, DC 20006  
(202) 973-4242  
[daniellefrappier@dwt.com](mailto:daniellefrappier@dwt.com)  
[chrisfedeli@dwt.com](mailto:chrisfedeli@dwt.com)

William H. May, III.  
Matthew Malone  
Hurt, Crosbie & May PLLC  
The Equus Building  
127 West Main Street  
Lexington, Kentucky 40507  
(859) 254-0000  
[bmay@hcm-law.com](mailto:bmay@hcm-law.com)  
[mmalone@hcm-law.com](mailto:mmalone@hcm-law.com)

## **II. True Wireless Meets the Statutory and Regulatory Requirements for ETC Designation**

True Wireless meets the requirements for designation as an ETC as established under federal law and FCC rules 47 U.S.C. § 214(e); 47 C.F.R. § 54.201 and state regulations. In particular, True Wireless:

- is a common carrier (*see* 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d));
- will offer the services supported by federal universal service support mechanisms as defined in 47 C.F.R. § 54.101(a) (*see also* 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1));

- will use a combination of its own facilities and resold services to provide the supported services (47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1)); NAC 704.680461(1)(b);
- will provide the supported services throughout its designated service area (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d); NAC 704.680461(1)(b));
- will advertise the availability of its universal service offerings and charges for such offerings using media of general distribution (47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2); NAC 704.680461(1)(c)); and
- will make available Low Income service to qualifying low income consumers (47 C.F.R. § 54.405).

**A. True Wireless Is A Common Carrier**

True Wireless provides CMRS throughout its requested Designated Service Area, and as a CMRS provider, True Wireless is regulated as a common carrier (47 C.F.R. § 20.9), subject to all applicable regulations, and therefore meets the ETC requirement of being a common carrier.

**B. True Wireless Offers The Services Supported By Federal Universal Service Support Mechanisms**

True Wireless will provide each of the nine services supported by federal universal service support mechanisms upon designation as an ETC as set forth below.

1. Voice Grade Access To The Public Switched Telephone Network - the ability to transmit and receive voice communications with a minimum bandwidth of 300 to 3,000 Hertz (47 C.F.R. § 54.101(a)(1)). True Wireless meets this requirement through its provision of mobile voice communications service and interconnection to the public switched telephone network.
2. Local Usage. — an amount of minutes of use provided free of charge (47 C.F.R. § 54.101(a)(2)). True Wireless commits to meeting this requirement by providing three attractive pricing plans for nationwide calling for customers qualifying for Low Income: 90 minutes of nationwide calling \$13.50 per month (free to the customer after Lifeline discount); 350 nationwide minutes for \$40 per month (\$26.50 per month to the customer after Lifeline discount); or 2,500 nationwide minutes for \$63.50 per month (\$50 per month to customer after Lifeline discount).<sup>1</sup> Each package provides

---

<sup>1</sup> True Wireless's subscribers will receive a total discount of \$13.50 through a combination of company discount and support from the federal Lifeline program, calculated as: Tier 1 support of

Low Income customers with larger local calling areas as well as long distance calling at competitive prices.

3. Dual Tone Multi-Frequency (“DTMF”) Signaling Or Its Functional Equivalent – a method of signaling that facilitates the transportation of call set-up and call detail information (47 C.F.R. § 54.101(a)(3)). The FCC has recognized that, with respect to wireless carriers, it “is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling.”<sup>2</sup> True Wireless meets this requirement by providing out-of-band digital signaling and in-band multi-frequency signaling for call set-up and termination.
4. Single Party Service Or Its Functional Equivalent – a dedicated message path for the length of a user’s particular transmission (47 C.F.R. § 54.101(a)(4)). With respect to wireless carriers, “single-party service” affords a user a dedicated message path for the length of a user’s particular transmission. True Wireless meets this requirement with respect to each of its service offerings.
5. Access To Emergency Services – access to emergency services includes both access to 911 and E911 services to the extent the local government has implemented such services (47 C.F.R. § 54.101(a)(5)). True Wireless meets this requirement by providing access to 911 service and meeting all requests for access to E911 service through local public service answering points (“PSAPs”).
6. Access To Operator Services – access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call (47 C.F.R. § 54.101(a)(6)). True Wireless meets this requirement by providing access via a switch owned by True Wireless, which will route customers to True Wireless’ call center.
7. Access To Interexchange Service – ability to make and receive calls using an interexchange carrier’s network (47 C.F.R. § 54.101(a)(7)). True Wireless meets this requirement by providing its customers with access to the ability to make and receive calls over interexchange network facilities. The FCC has determined that wireless carriers are not required to provide equal access to

---

between \$5.28 and \$6.50 per customer; Tier 2 support of \$1.75 per customer; Tier 3 support of \$1.75 per customer; and an additional company discount of between \$3.50 and \$4.72 per customer.

<sup>2</sup> *In Re Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, at ¶ 71 (FCC rel. May 8, 1997) (“*Universal Service Order*”).

interexchange service, but may be required to provide equal access in certain special situations.<sup>3</sup>

8. Access To Directory Assistance – making available to customers, among other services, access to information contained in directory listings. True Wireless meets this requirement by providing all of its customers with access to directory listings by dialing 411. True Wireless meets this requirement by providing access via a switch owned by True Wireless, which will route customers to True Wireless’ call center.
9. Toll Limitation For Qualifying Low-Income Consumers – toll limitation means both toll blocking and toll control, or, if a carrier is not capable of providing both toll blocking and toll control, then toll limitation is defined as either toll blocking or toll control (47 C.F.R. § 54.101(a)(9); 47 C.F.R. § 54.400(d)). True Wireless commits to meeting this requirement by offering service on a prepaid, or pay as you go, basis. As the FCC found in its grant of ETC designation to Virgin Mobile, “the prepaid nature of [a prepaid wireless carrier’s] service offering works as an effective toll control.”<sup>4</sup>

**C. True Wireless Will Use A Combination of Its Own Facilities and Resold Facilities To Provide The Supported Services**

True Wireless provides the supported services using a combination of its own facilities, which include a switch, and resold network components of other carriers. In combination, these facilities constitute the physical components of the telecommunications network that are used in the transmission or routing of the service for which support is requested. Because these facilities include a switch owned by True Wireless and leased communications facilities of other carriers, the method by which True Wireless provisions the supported services is consistent with the FCC’s rules.<sup>5</sup>

With this application, True Wireless is providing the Commission with documents describing these facilities in detail at **Exhibit A**. Certain of this facilities information constitutes

---

<sup>3</sup> *Id.* at ¶ 78.

<sup>4</sup> *In Re Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); etc.*, Order, 24 FCC Rcd 3381, 3394 at ¶ 34 (FCC rel. Mar. 5, 2009).

<sup>5</sup> *See* 47 C.F.R. § 54.201(e), (f).



confidential and proprietary information which, if openly disclosed, would permit an unfair commercial advantage to True Wireless' competitors. True Wireless is therefore filing redacted versions for public inspection and unredacted versions of these documents under seal for the Commission's review only. For reasons more fully explained in the "Petition for Confidentiality" being filed simultaneously herewith, True Wireless asks the Commission for reasonable confidential treatment of this information pursuant to KRS § 61.878(1).

**D. True Wireless Will Provide The Supported Services Throughout Its Designated Service Areas**

True Wireless commits to provide the supported services throughout its Designated Service Area, consistent with all applicable requirements. To the extent a potential customer requests service within True Wireless' Designated Service Area, but outside its network coverage, True Wireless will follow the six-step process specified in 47 C.F.R. § 54.202(a)(1)(i). Specifically, True Wireless will, with the cooperation of its vendor for wireless spectrum and related wireless services, determine 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.

**E. True Wireless Will Advertise The Availability Of Its Universal Service Offerings And Charges For Such Offerings Using Media Of General Distribution**

True Wireless commits to advertise the availability of, and charges for, the supported services using media of general distribution at least once every three months throughout the Designated Service Area. This advertising will occur through some combination of media

channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet. In addition, True Wireless will use appropriate media outlets to advertise its universal service offerings in a manner consistent with FCC rules.

**F. True Wireless Will Make Available Low Income Service To Qualifying Low-Income Consumers**

Upon designation as an ETC, True Wireless will make available to qualified low income consumers a discounted service offering that meets all applicable Low Income requirements. Consumers increasingly rely on their mobile phones for their communications needs and qualifying low income consumers are no exception. Low-income consumers would be the primary beneficiaries of True Wireless' Low Income service offering. True Wireless plans to offer three attractive pricing plans for nationwide calling for customers qualifying for Low Income: 90 minutes of nationwide calling free after the discount; 350 minutes nationwide for \$26.50 per month after the discount; or unlimited nationwide for \$50 per month after the discount. Each package provides Low Income customers with local, as well as long distance, calling at competitive prices.

**G. Satisfaction of Applicable Consumer Protection and Service Quality Standards**

True Wireless will comply with all applicable state and federal consumer protection and service quality standards. If designated as an ETC, True Wireless will continue to provide service on a timely basis to requesting customers within the Designated Service Area. Further, True Wireless will abide by the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service ("CTIA Code"). True Wireless has already adopted the

CTIA Code and is committed to compliance with the CTIA Code throughout its service areas, including in those areas where it is seeking designation as an ETC.

### **III. Area for Which ETC Designation is Requested**

True Wireless will provide and activate service for customers residing in the non-rural telephone exchange areas of three Kentucky ILECs: Windstream, BellSouth, and Cincinnati Bell. True Wireless does not seek designation as an ETC in any areas served by rural telephone companies, or in any rural exchange of any telephone company in the Commonwealth of Kentucky.

### **IV. Designation of True Wireless As An ETC Is In The Public Interest**

True Wireless meets all of the requirements for designation as an ETC by providing the supported services, committing to serve all consumers throughout its Designated Service Area, offering a Low Income service consistent with all applicable requirements, advertising the availability of its universal service offerings, and furthering the goals of the universal service program. Moreover, designation of True Wireless as an ETC is in the public interest because consumers will benefit from competitive pricing and new services, such as True Wireless' Low Income plan. As True Wireless expands its network in Kentucky, consumers will benefit from a high level of service quality and more service options.

Access to wireless services is no longer a luxury, but a necessity for many economically disadvantaged Americans. Low income consumers are mobile and transient, often balancing multiple jobs and moving far more frequently than consumers with higher incomes, making wireless telecommunications the only technology that truly suits their needs in most cases. Because low income consumers spend less time during the day at a fixed location, and even less

time at a fixed location with a phone available for their use, access to wireless telecommunications is of crucial importance to low income consumers.

True Wireless fulfills a critical role in the marketplace by ensuring that these low income consumers, who cannot afford the services provided by other wireless providers, can still access these important services. True Wireless' designation as an ETC will result in low income consumers having greater access to wireless telecommunications services in Kentucky, thereby advancing the basic goal of preserving and advancing universal service.<sup>6</sup> Indeed, True Wireless will pass through to its Low Income eligible customers all the federal Low Income program discounts. Designating True Wireless as an ETC will improve its ability to serve these customers, and thus will serve the public interest.

**V. Compliance with Kentucky Regulations and Federal Certification**

Consistent with the PSC's rules, True Wireless commits to audit all of its Lifeline customers in Kentucky annually and submit the results of such survey to the PSC by August 15 of each year, in accordance with Administrative Case No. 360.<sup>7</sup> Furthermore, upon providing service in Kentucky, True Wireless agrees to file the required E911 surcharges remittances and reports regularly with the Kentucky CMRS Board pursuant to 202 KAR 6:080.

Finally, True Wireless certifies that it will use federal low income universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, in accordance with 47 U.S.C. § 254(e).

**VI. Conclusion**

---

<sup>6</sup> See 47 U.S.C. § 254(b).

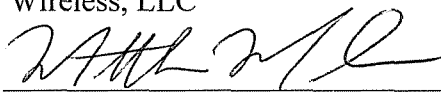
<sup>7</sup> Administrative Case No. 360, *An Inquiry Into Universal Service and Funding Issues*, Order (Ky. PSC May 24, 2007).

True Wireless respectfully requests designation as an ETC for the Designated Service Area for purposes of receiving federal universal service support.

Dated this 16 day of November 2011.

Respectfully submitted,

True Wireless, LLC

By: 

Danielle Frappier  
Chris Fedeli  
Davis Wright Tremaine LLP  
1919 Pennsylvania Avenue, NW, Suite 800  
Washington, DC 20006  
(202) 973-4242

William H. May, III  
Matthew Malone  
Hurt, Crosbie & May PLLC  
The Equus Building  
127 West Main Street  
Lexington, Kentucky 40507  
(859) 254-0000

**List of Exhibits**

Exhibit A – Redacted Facilities Description Documents (confidential versions filed under seal)

Exhibit B – Kentucky Secretary of State Certificate to do Business

Exhibit C – Declaration of Brian Cox

**Exhibit A**

**Redacted Facilities Description Document**

True Wireless owns a switch, which it uses to route its Lifeline customers' calls to directory assistance and operator services, two of the supported services.<sup>1</sup> In addition, True Wireless leases [REDACTED] from a third party, over which True Wireless transmits that same traffic. In combination with True Wireless' purchase of certain wireless services from large wireless carriers (which would be [REDACTED] for its operations in Kentucky, if approved), this arrangement satisfies the FCC requirement for ETCs to provide service using, at least in part, their networks facilities, which includes a combination of their own network facilities and the network facilities of another carrier.

By way of example, when a True Wireless wireless customer dials directory assistance, this traffic is routed over the PSTN, [REDACTED] and then True Wireless' switch and its dedicated leased [REDACTED] facilities for ultimate termination to True Wireless' call center. This same call routing applies to operator services calls as well. Calls to operator services are routed over the PSTN, [REDACTED] and then onto True Wireless' switch and dedicated [REDACTED] facilities for ultimate termination to True Wireless' call center.

---

<sup>1</sup> This switch is also used to route its customers' calls to True Wireless' call center.



**Exhibit B**

**Kentucky Secretary of State Certificate**



COMMONWEALTH OF KENTUCKY  
TREY GRAYSON, SECRETARY OF STATE

0785725.06

dcornish  
ADD

Elaine N. Walker, Secretary of State  
Received and Filed:  
2/28/2011 3:32 PM  
Fee Receipt: \$90.00

Division of Corporations  
Business Filings  
PO Box 718  
Frankfort, KY 40602  
(502) 564-3490  
www.sos.ky.gov

Certificate of Authority  
(Foreign Business Entity)

FBE

Pursuant to the provisions of KRS 14A and KRS 271B, 273, 274, 275, 362 and 386 the undersigned hereby applies for authority to transact business in Kentucky on behalf of the entity named below and, for that purpose, submits the following statements:

1. The entity is a:
- |                          |                                |                                     |                                      |                          |   |
|--------------------------|--------------------------------|-------------------------------------|--------------------------------------|--------------------------|---|
| <input type="checkbox"/> | profit corporation (KRS 271B)  | <input type="checkbox"/>            | nonprofit corporation (KRS 273).     | <input type="checkbox"/> | professional service corporation (KRS 274).       |
| <input type="checkbox"/> | business trust (KRS 386).      | <input checked="" type="checkbox"/> | limited liability company (KRS 275). | <input type="checkbox"/> | professional limited liability company (KRS 275). |
| <input type="checkbox"/> | limited partnership (KRS 362). |                                     |                                      |                          |   |

2. The name of the entity is True Wireless, LLC  
(The name must be identical to the name on record with the Secretary of State.)

3. The name of the entity to be used in Kentucky is (if applicable): \_\_\_\_\_  
(Only provide if "real name" is unavailable for use; otherwise, leave blank.)

4. The state or country under whose law the entity is organized is Texas

5. The date of organization is 07/08/2008 and the period of duration is Perpetual  
(If left blank, the period of duration is considered perpetual.)

6. The mailing address of the entity's principal office is

<u>3124 Brother Blvd. #104</u>	<u>Bartlett</u>	<u>TN</u>	<u>38133</u>
Street Address	City	State	Zip Code

7. The street address of the entity's registered office in Kentucky is

<u>400 West Market Street, Suite 1800</u>	<u>Louisville</u>	<u>40202</u>
Street Address (No P.O. Box Numbers)	City	Zip Code

and the name of the registered agent at that office is National Registered Agents, Inc.

8. The names and business addresses of the entity's representatives (secretary, officers and directors, managers, trustees or general partners):

<u>Brian Cox</u>	<u>3124 Brother Blvd. #104</u>	<u>Bartlett</u>	<u>TN</u>	<u>38133</u>
Name	Street or P.O. Box	City	State	Zip Code
Name	Street or P.O. Box	City	State	Zip Code
Name	Street or P.O. Box	City	State	Zip Code

9. If a professional service corporation, all the individual shareholders, not less than one half (1/2) of the directors, and all of the officers other than the secretary and treasurer are licensed in one or more states or territories of the United States or District of Columbia to render a professional service described in the statement of purposes of the corporation.

10. I certify that, as of the date of filing this application, the above-named entity validly exists under the laws of the jurisdiction of its formation.

11. If a limited partnership, it elects to be a limited liability limited partnership. Check the box if applicable:

12. This application will be effective upon filing, unless a delayed effective date and/or time is provided. The effective date or the delayed effective date cannot be prior to the date the application is filed. The date and/or time is \_\_\_\_\_  
(Delayed effective date and/or time)

	<u>Brian Cox, Member</u>	<u>2/22/11</u>
Signature of Authorized Agent	Printed Name & Title	Date

I, National Registered Agents, Inc., consent to serve as the registered agent on behalf of the corporation.

<u>Victor Alfano</u>	<u>Victor Alfano</u>	<u>Vice President</u>	<u>2/24/2011</u>
Type/Print Name of Registered Agent	Printed Name	Title	Date
Signature of Registered Agent			

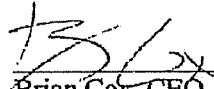
**Exhibit C**

**Declaration of Brian Cox**

**Declaration of Brian Cox**

I, Brian Cox, do hereby declare under penalty of perjury as follows:

1. I am the Chief Executive Officer of True Wireless, LLC ("True Wireless"), a Texas limited liability company with its principal place of business at 3124 Brother Blvd. #104, Bartlett, TN 38133.
2. I have reviewed the foregoing PETITION OF TRUE WIRELESS LLC FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS COMPANY IN KENTUCKY and confirm the information contained therein to be true and correct to the best of my knowledge, information, and belief.
3. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

  
\_\_\_\_\_  
Brian Cox, CEO  
True Wireless, LLC

Dated: November 8, 2011