

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF I-WIRELESS, LLC FOR	)	
DESIGNATION AS AN ELIGIBLE	)	CASE NO.
TELECOMMUNICATIONS CARRIER IN THE	)	2010-00478
COMMONWEALTH OF KENTUCKY FOR THE	)	
LIMITED PURPOSE OF OFFERING LIFELINE	)	
SERVICE TO QUALIFIED HOUSEHOLDS	)	

O R D E R

On December 6, 2010, i-wireless, LLC (“i-wireless”), a Commercial Mobile Radio Service (“CMRS”) resale provider, filed a petition under 47 U.S.C. § 214(e)(2) seeking designation as an Eligible Telecommunications Carrier (“ETC”) to receive federal universal service support in Kentucky.<sup>1</sup> I-wireless seeks ETC designation only for the purposes of participation in the Lifeline Program. I-wireless does not seek high-cost support.

The petition states that: (1) i-wireless meets all the requirements for designation as an ETC to serve the designated areas in the state of Kentucky;<sup>2</sup> (2) i-wireless requests designation throughout each of the designated areas within its service coverage;<sup>3</sup> (3) in accordance with 47 U.S.C. § 214(e)(2), i-wireless seeks to be

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<sup>1</sup> I-wireless requests ETC designation throughout its entire licensed service territory. Petition at 6 and Exhibit 2.

<sup>2</sup> Id. at 2-13.

<sup>3</sup> Id. at 4-5.

designated as an ETC in rural and non-rural wirecenters;<sup>4</sup> and (4) designation of i-wireless as an ETC for the designated areas served in Kentucky will serve the public interest.<sup>5</sup>

On April 1, 2009, i-wireless filed with the Federal Communications Commission (“FCC”) a petition requesting that the FCC exercise its forbearance authority under Section 10 of the Act (47 U.S.C. § 160) with respect to the facilities-based requirement. The FCC granted the petition for forbearance for the purposes of participating in the Lifeline Program in an Order dated June 25, 2010. The FCC conditioned the granting of the forbearance request and the ETC designation. These conditions were:

1. I-wireless providing its Lifeline customers with basic 911 and enhanced 911 (“E911”) access regardless of activation status and availability of prepaid minutes;
2. I-wireless providing its new Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service;
3. I-wireless complying with conditions 1 and 2 as of the date it provides Lifeline service;
4. I-wireless obtaining a certification from each Public Service Answering Point (“PSAP”) where i-wireless seeks to provide Lifeline service confirming that i-wireless provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met;

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<sup>4</sup> Id. at 4 and Exhibit A.

<sup>5</sup> Id. at 13-5.

5. I-wireless requiring each customer to self-certify at the time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless;

6. I-wireless establishing safeguards to prevent its customers from receiving multiple i-wireless Lifeline subsidies at the same address; and

7. I-wireless dealing directly with the customer to certify and verify the customer's Lifeline eligibility.

The FCC required i-wireless to submit a plan describing the measures it would take to implement each of these conditions.

On July 26, 2010, i-wireless filed its compliance plan with the FCC. I-wireless states in the petition that it intends to follow the same compliance plan in providing service in Kentucky. The FCC approved the compliance plan on October 21, 2011.

I-wireless has branded its Lifeline offering as "Access Mobile by i-wireless." The company's Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other i-wireless prepaid customers. I-wireless' Lifeline service customers will receive a free handset and a minimum of 100 Anytime prepaid minutes per month at no charge, with additional service priced at \$0.10/minute and \$0.10/text message. Customers may use their minutes to place domestic long distance calls at no additional charge. In addition to voice services, prepaid Lifeline customers will also have access to a variety of other standard features at no additional charge, including voice mail, caller I.D. and call-waiting services. I-wireless does not decrement minutes for incoming text messages or calls placed to i-wireless customer service or

911 emergency services. Customers are able to check the balance of their minutes at no charge, and specified amounts of unused minutes carry over month-to-month.

Furthermore, through i-wireless' partnership with The Kroger Co. ("Kroger"), one of the nation's largest grocery retail chains, customers can accumulate free minutes for dollars spent at select Kroger-owned store locations using their Kroger shopper's card. Currently, i-wireless has partnerships with 102 Kroger stores in Kentucky. Lifeline customers can participate in this Free Minutes program even when utilizing food stamps for payment. By combining the Lifeline program and the Free Minutes program, subscribers can easily accumulate 200 telephone minutes or more per month at no charge.

Though i-wireless' Lifeline service offering will be the default plan for Lifeline customers, subscribers will have the option to apply the Lifeline discount to any of the service plans offered by i-wireless. The discount has a retail value of \$15. As such, Lifeline customers can apply that \$15 to any rate plan currently available at retail. I-wireless' Lifeline offering will allow feature-rich mobile connectivity for qualifying subscribers through a variety of rate plans that are comparable in minutes and features to those available to post-paid wireless subscribers—but at low Lifeline rates and without the burden of credit checks, contracts, activation fees or roaming charges. I-wireless' prepaid offering will be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

Low-income consumers will further benefit from i-wireless' service because of i-wireless' unique software distribution platform that will allow customers to purchase refill

minutes at local stores in neighborhoods where many Lifeline-eligible customers reside. I-wireless has existing relationships with over 2,200 such neighborhood retailers across the United States and has plans to expand this reach. This innovative distribution model is more practical and convenient for potential Lifeline customers than other mechanisms because it allows customers to obtain phones, service, and minutes without the expense and trouble of traveling to retail locations outside their neighborhoods or to having access to a computer to go online.

Customers interested in obtaining information about the Lifeline program will be directed to a toll-free telephone number and to i-wireless' Access Wireless website, which will contain information regarding the company's Lifeline service plans, including a detailed description of the program and state-specific eligibility criteria. Customers may then request that a Lifeline enrollment form be mailed to them, or they can download a form from the Internet or retrieve a form from i-wireless kiosks in Kroger stores. The applicant must return the signed enrollment form and all supporting documentation to the address provided by i-wireless. I-wireless has contracted with Solix, Inc. to assist in reviewing customer applications and verifying eligibility. Solix's process and application database ensures state eligibility criteria are met and that only one Lifeline phone per household is issued.<sup>6</sup>

In an effort to prevent waste, fraud, and abuse of the program, i-wireless has implemented the following non-usage policy: if no usage appears on a customer's account during any continuous 60-day period, i-wireless will promptly notify the customer that the customer is no longer eligible for i-wireless Lifeline service subject to

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<sup>6</sup> I-wireless' response to Commission Staff's First Request for Information, Item 3.

a 30-day grace period. During the 30-day grace period, the customer's account will remain active, but i-wireless will engage in outreach efforts, including text messages to the customer's i-wireless phone, to determine whether the customer desires to remain on the company's Lifeline service. If the customer's account does not show any customer-specific activity during the grace period (such as making or receiving a voice call, receiving or sending a text message, downloading data, or adding money to the account), i-wireless will deactivate Lifeline services and cease seeking Universal Service Fund ("USF") reimbursement for that customer at that time.<sup>7</sup>

I-wireless has stated in its responses to the Commission's Information Request that it does submit to the Commission the Kentucky USF fee and Kentucky Telecommunications Relay Service and Telecommunications Access Program fee for each customer, although not billed directly to the customer because the customers do not receive bills.<sup>8</sup> I-wireless also states that it does remit the statewide wireless 911 fee to the Commercial Mobile Radio Services Board.<sup>9</sup>

I-wireless, also in response to the Commission's Information Request, states that it will be seeking funding from the Kentucky USF, and it will not be seeking reimbursement from the Federal USF for toll limitation service or Link-Up.<sup>10</sup>

On January 26, 2011, the Commission issued an Information Request to i-wireless. I-wireless filed its response on March 1, 2011. No party has requested a

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<sup>7</sup> Id. at Item 4.

<sup>8</sup> Id. at Items 5 and 6.

<sup>9</sup> Id. at Item 7.

<sup>10</sup> Id. at Items 19 and 20.

hearing in this matter and the Commission finds that this matter is now ripe for a decision.

### DISCUSSION

Pursuant to 47 U.S.C. § 254(e), “only an eligible telecommunications carrier designated under 47 U.S.C. § 214(e) shall be eligible to receive specific federal universal service support.” Pursuant to 47 U.S.C. § 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated service area.

Pursuant to 47 U.S.C. § 214(e)(2), state commissions bear the primary responsibility for performing ETC designations. Under the same section, the Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience, and necessity, as long as the requesting carrier meets the requirements of 47 U.S.C. § 214(e)(1). Also, before designating an additional ETC for an area served by a rural telephone company, the Commission must determine that the designation is in the public interest.

As outlined in 47 C.F.R. § 54.201(d), an ETC petition must contain the following: (1) a certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to 47 U.S.C. § 254(c); (2) a certification that the petitioner offers or intends to offer the supported services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services”; (3) a description of how the petitioner “advertise[s] the availability of [supported] services and the charges therefore [sic] using media of general distribution;” and (4) if the petitioner

meets the definition of a “rural telephone company” pursuant to 47 U.S.C. § 153(37), the petitioner must identify its study area; or, if the petitioner is not a rural telephone company, it must include a detailed description of the geographic service area for which it requests an ETC designation from the Commission.

#### OFFERING THE SERVICES DESIGNATED FOR SUPPORT

I-wireless has demonstrated through the required certifications and related filings that it now offers, or will offer upon designation as an ETC, the services supported by the federal universal service mechanism. I-wireless certifies that it now provides or will provide throughout its designated service area the services and functionalities enumerated in 47 C.F.R. § 54.101(a). I-wireless has also certified that, in compliance with 47 C.F.R § 54.405, it will make available and advertise Lifeline service to qualifying low-income consumers.

#### OFFERING THE SUPPORTED SERVICES USING A CARRIER’S OWN FACILITIES

I-wireless is a non-facilities based mobile virtual network operator (“MVNO”). On April 1, 2009, i-wireless filed a petition with the FCC seeking forbearance from the facilities requirement of Section 214(e)(1)(A) of the Act. In the i-wireless Forbearance Order<sup>11</sup>, the FCC found that i-wireless met the statutory requirements for forbearance, subject to certain conditions, and forbore from application of the facilities requirement of Section 214 (e)(1)(A) for the limited purpose of allowing i-wireless to seek designation as a Lifeline-only ETC eligible for support from the USF for the provision of Lifeline

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<sup>11</sup> I-wireless, LLC Petition for Forbearance from 47 U.S.C § 214(e)(1)(A), CC Docket No. 96-45, WC Docket No. 09-197, Compliance Plan (filed September 9, 2011) (Revised Compliance Plan); i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A), CC Docket No. 96-45, WC Docket No. 09-197, Order, 25 FCC Rcd 8784 (2010) (“Forbearance Order”).



service to eligible subscribers. On July 27, 2010, i-wireless filed a plan outlining measures that it will undertake to implement the conditions imposed in the Forbearance Order. On September 9, 2011, i-wireless submitted a Revised Compliance Plan that includes additional certification procedures and measures to prevent waste, fraud and abuse, including measures to prevent duplicate Lifeline benefits being awarded to the same household.

In the i-wireless Forbearance Order, the FCC conditioned forbearance on i-wireless implementing certain protections designed to prevent waste, fraud and abuse in the program. In its Revised Compliance Plan, i-wireless commits to implement the following measures:

1. Providing its Lifeline subscribers with 911 and E911 access regardless of activation status and availability of prepaid minutes;
2. Providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, non-compliant handsets of existing subscribers who obtain Lifeline-supported service;
3. Complying with conditions 1 and 2 above as of the date i-wireless provides Lifeline service;
4. Obtaining a certification from each PSAP where i-wireless provides Lifeline service, confirming that i-wireless provides its subscribers with 911 and E911 access or if, within 90 days of i-wireless' request for certification, a PSAP has not provided the certification and the PSAP has not made an affirmative finding that i-wireless does not provide its subscribers with access to 911 and E911 service within the

PSAP's service area, i-wireless may self-certify that it meets the basic 911 and E911 requirements;

5. Requiring its subscribers to self-certify under penalty of perjury at time of service activation and annually thereafter that they are the head of household, that they receive Lifeline service only from i-wireless, and that no other member of the household receives Lifeline-supported service from any other Lifeline provider;

6. Establishing safeguards to prevent i-wireless' subscribers from receiving multiple i-wireless Lifeline subsidies at the same address;

7. Dealing directly with the consumer to certify and verify the consumer's Lifeline eligibility; and

8. Cooperating fully with state and federal regulators to prevent waste, fraud, and abuse of Lifeline funds. Specifically, i-wireless commits to:

a. Implementing a 60-day non-usage policy in all states where i-wireless provides Lifeline services, under which i-wireless will identify its subscribers that have not used its Lifeline service for 60 days and i-wireless will not seek support for such subscribers if they do not actively use its Lifeline service during a 30-day grace period following the initial 60-day non-usage period;

b. Explaining in prominent, plain, easily comprehensible language to all new and potential subscribers that no consumer is permitted to receive more than one Lifeline subsidy;

c. Implementing measures and procedures to prevent duplicate Lifeline benefits being awarded to the same household, including emphasizing the one-

per-household limitation in call-center and sales scripts, and in all marketing, advertising, and website content;

d. Requiring each eligible Lifeline consumer at the time of enrollment to initial on the certification form that to the best of his or her knowledge that he or she is not receiving Lifeline supported service from any other Lifeline provider, and listing as examples the brand names of, at least, the leading wireline and leading two wireless Lifeline providers in the area to ensure the consumer understands what is meant by “Lifeline-supported service;”

e. Providing state commissions, the FCC or Universal Service Administrative Company (“USAC”), upon request, data that will enable that state, the FCC, or USAC to determine whether consumers are enrolled in more than one Lifeline program;

f. Promptly investigating any notification that i-wireless receives from a state Public Utility Commission, the FCC or USAC that one of its subscribers already receives Lifeline service from another carrier;

g. Immediately deactivating a subscriber’s Lifeline service and no longer reporting that subscriber on IJSAC Form 497 if an i-wireless investigation, a state commission, the FCC or USAC concludes that the subscriber receives Lifeline services from another carrier in violation of the Commission’s regulations and that i-wireless’ Lifeline service to that subscriber should be discontinued;

h. Requiring that all consumers present proof of eligibility in all states in which i-wireless provides Lifeline service, regardless of whether proof of eligibility is required in that state; and

i. Offering at least one Lifeline plan that provides consumers with at least 250 minutes-of-use per month for at least 36 months from the date of this order.

On October 21, 2011, the FCC approved i-wireless' revised compliance plan and found that i-wireless has met the conditions set forth in the Forbearance Order.<sup>12</sup> Accordingly, the FCC found that i-wireless is eligible to seek designation as a non-facilities-based ETC for Lifeline-only support provided that it fulfills the requirements in its revised compliance plan in each state where it is designated to provide Lifeline service.

#### ADVERTISING SUPPORTED SERVICES

I-wireless has demonstrated that it satisfies the requirement of 47 U.S.C. § 214(e)(1)(b) to advertise the availability of the supported services and the charges therefor using media of general distribution. In its petition, i-wireless states that it will publicize the availability of Lifeline and Link-Up in a manner reasonably designed to reach those likely to qualify for those services, as required by 47 C.F.R. §§ 54.405(b) and 54.411(d). I-wireless shall also advertise each of the supported services on a regular basis in newspapers, magazines, television, and radio, in accordance with 47 C.F.R. § 54.201(d)(2).

#### RURAL AND NON-RURAL STUDY AREAS

The FCC has previously found designation of additional ETCs in areas served by non-rural telephone companies to be in the public interest based upon a demonstration

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<sup>12</sup> CC Docket No. 96-45 and WC Docket No. 09-197 In the Matter of Federal-State Joint Board on Universal Service; Telecommunications Carriers Eligible for Universal Service Support; i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A) (October 21, 2011).

that the requesting carrier complies with the statutory eligibility obligations of 47 U.S.C. § 214(e)(1).<sup>13</sup>

### DESIGNATED SERVICE AREAS

The Commission finds that i-wireless should be certified as an ETC in the requested service areas served by non-rural telephone companies, BellSouth Telecommunications, Inc. d/b/a AT&T-Kentucky, Cincinnati Bell Telephone Company, and Windstream Kentucky East.

### PUBLIC INTEREST ANALYSIS

In determining whether the public interest is served, the burden of proof is upon the ETC applicant.<sup>14</sup> I-wireless asserts that granting ETC designation to i-wireless in Kentucky will further the public interest by providing Kentucky consumers, especially low-income consumers, with lower prices and higher-quality services. I-wireless offers a unique benefit through its affiliation with Kroger which allows customers to earn additional minutes simply by shopping at select Kroger-owned store locations using their Kroger shopper's card. I-wireless' Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all company customers. I-wireless' Lifeline rate plans will allow feature-rich mobile connectivity for qualifying subscribers through a variety of rate plans that are comparable in minutes and features to those available to post-paid wireless subscribers, but at low Lifeline

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<sup>13</sup> See, e.g., Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 39 (2000).

<sup>14</sup> See Highland Cellular Order 19 FCC Rcd at 6431, para. 20; Virginia Cellular Order, 19 FCC Rcd at 1574-75, para. 26.

rates and without the burden of credit checks, contracts, activation fees or roaming charges. I-wireless customers are able to choose a prepaid plan in which they are charged only for the minutes they use, and specified amounts of unused minutes carry over month-to-month. I-wireless has satisfied the burden of proof in establishing that its universal service offering in this area will provide benefits to rural consumers.

#### ANNUAL CERTIFICATION AND VERIFICATION

Each year i-wireless will require each Lifeline subscriber to recertify their head-of-household status, certify that only one Lifeline discount is received at that household, and document their continued program eligibility for Lifeline in accordance with the annual Lifeline Certification and Verification for USAC that is due annually at the end of August and in accordance with Kentucky Public Service Commission Administrative Case No. 360. The Commission finds that i-wireless' plan to meet the annual certification and verification requirements is in accordance with the Commission's requirements.

The Commission, having reviewed the evidence of record and being otherwise sufficiently advised, HEREBY ORDERS that:

1. I-wireless is designated as an ETC for the exchanges of the non-rural telephone companies BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky, Cincinnati Bell Telephone Company, and Windstream Kentucky East.
2. During the current certification period, i-wireless shall be eligible to receive Low-Income Federal Universal Service Fund Support and Kentucky Universal Service Fund Support for Lifeline only.

3. I-wireless shall offer low-income universal support services to consumers in its service area.

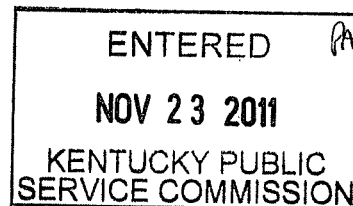
4. I-wireless shall comply with all conditions imposed and approved by the FCC in granting its petition for forbearance.

5. I-wireless shall advertise the availability of and charges for these services using media of general distribution.

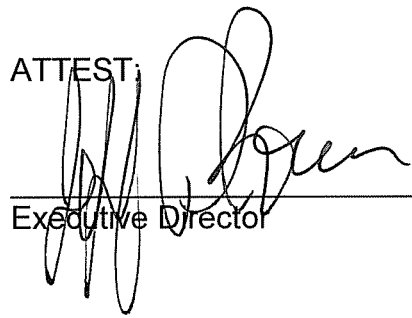
6. I-wireless shall comply with the Commission's annual certification process for Lifeline customers in accordance with the requirements of Administrative Case No. 360.<sup>15</sup>

7. A copy of this Order shall be served upon the FCC and the USAC.

By the Commission



ATTEST:

  
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Executive Director

<sup>15</sup> Administrative Case No. 360, An Inquiry Into Universal Service and Funding Issues (Ky. PSC May 24, 2007).

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