

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SI WIRELESS FOR)	
DESIGNATION AS AN ELIGIBLE)	CASE NO
TELECOMMUNICATIONS CARRIER IN THE)	2012-00145
COMMONWEALTH OF KENTUCKY)	

O R D E R

On April 17, 2012, SI Wireless, LLC ("SI Wireless"), a commercial mobile radio service ("CMRS") provider, filed a petition under 47 U.S.C. § 214(e)(2) seeking designation as an Eligible Telecommunications Carrier ("ETC"). SI Wireless seeks ETC designation for the purpose of participation in the High-Cost and Low-Income Universal Service Fund support mechanisms, including the newly established Mobility Fund. SI Wireless requests designation for service offered throughout its service area in the state of Kentucky.¹

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

¹ SI Wireless requests ETC designation throughout its entire licensed service territory. Petition at 8 and Exhibits A and B.

² *Id.* at 9-20.

³ *Id.* at 8-9.

be designated as an ETC in rural and non-rural wirecenters;⁴ and (4) designation of SI Wireless as an ETC for the designated areas served in Kentucky will serve the public interest.⁵

SI Wireless is a CMRS carrier licensed by the FCC to provide wireless communication services throughout portions of Western Kentucky. Formed in late 2009 by a partnership of Illinois-based rural independent telephone companies, SI Wireless is focused on providing CDMA-based 3G wireless services within its licensed service area that includes portions of rural Western Kentucky, which is the focus of this application, and Tennessee.⁶

SI Wireless requests designation as an ETC throughout its Western Kentucky service area. The Appendix identifies the specific wire centers that correspond to SI Wireless' Kentucky service area where SI Wireless seeks ETC designation. SI Wireless seeks designation in the entire rural study areas of Ballard Rural Telephone Cooperative Corporation; Salem Telephone, Inc.; West Kentucky Rural Telephone Cooperative Corporation, Inc.; and in parts of the rural study area of Windstream Kentucky East--London study area. SI Wireless is also seeking ETC designation in parts of the non-rural study area of BellSouth Telecommunications, LLC d/b/a AT&T Kentucky.⁷

⁴ *Id.*

⁵ *Id.* at 20–27.

⁶ *Id.* at 5.

⁷ *Id.* at 8 and Exhibits A and B.

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

SI 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. SI 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. SI 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

SI Wireless is a facilities-based wireless telecommunications carrier with its own switching, transport, cell sites, and associated telecommunications facilities in its proposed designated ETC service area. SI Wireless states that it intends to provide the supported services using its existing network infrastructure. As discussed previously in this Order, 47 C.F.R. § 54.201(d) defines the requirements that a carrier must fulfill in order to be granted ETC status. Under section (d)(1), the carrier must provide the supported services by “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).” The next section, 47 C.F.R. § 54.201(e), defines the term “facilities” to mean “any physical components of the telecommunications network that are used in the transmission or routing of the service that are designated for support pursuant to subpart B of this part.” 47 C.F.R. § 54.201(f) provides that “the

term 'own facilities' includes, but is not limited to, facilities obtained as unbundled network elements pursuant to part 51 of this chapter, provided that such facilities meet the definition of the term 'facilities' under this subpart."⁸ The Commission finds that SI Wireless has demonstrated that it satisfies the requirement of Section 214(e)(1)(A) and that it offers the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.

ADVERTISING SUPPORTED SERVICES

SI Wireless states in its application that it widely advertises the availability of its services via television, radio, newspapers, magazines and other print advertisements, outdoor advertising, direct marketing and the Internet to reach consumers throughout SI Wireless' service area. In addition, SI Wireless will advertise the availability of Lifeline through various channels designed to reach those most likely to qualify for the service.

SI 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, therefore, using media of general distribution. In its petition, SI 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). SI Wireless shall also be required to 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).

⁸ See, e.g., 47 C.F.R. §§ 51.307–51.318, which outline the requirements for carrier access to and use of unbundled network elements.

RURAL AND NON-RURAL STUDY AREAS

The Federal Communications Commission (“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 that the requesting carrier complies with the statutory eligibility obligations of 47 U.S.C. § 214(e)(1).⁹

Rural Study Areas

In considering whether designation of SI Wireless as an ETC in areas served by rural telephone companies will serve the public interest, the Commission must consider whether the benefits of an additional ETC in such study areas outweigh any potential harm. In determining whether designation of a competitive ETC in a rural telephone company’s service area is in the public interest, the Commission must weigh the benefits of increased competitive choice, the impact of the designation on the universal service fund, the unique advantages and disadvantages of the competitor’s service offering, any commitments made regarding quality of telephone service, and the competitive ETC’s ability to satisfy its obligation to serve the designated service areas within a reasonable time frame.

Public Interest Analysis

The Commission finds that SI Wireless’ universal service offering will provide a variety of benefits to customers. For instance, SI Wireless has committed to provide customers access to telecommunications and data services where they do not have access to a wireline telephone. In addition, the mobility of SI Wireless’ wireless service

⁹ 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).

will provide benefits such as access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities. Moreover, SI Wireless states that it offers larger local calling areas than those of the incumbent LECs it competes against, which could result in important health and safety benefits so that people in need are not required to travel long distances to find a telephone in an emergency or other important health or safety situation.¹⁰

In determining whether the public interest is served, the burden of proof is upon the ETC applicant.¹¹ SI Wireless asserts that granting ETC designation to SI Wireless will provide rural consumers the benefits of competition through increased choices and further the deployment of new telecommunications services. They also assert that granting the request will not harm consumers. SI Wireless has satisfied the burden of proof in establishing that its universal service offering in this area will provide benefits to rural consumers.

Designated Service Areas

The Commission finds that SI Wireless should be certified as an ETC in the requested service areas served by rural and non-rural telephone companies, as listed in the Appendix to this Order.

Regulatory Oversight

In addition to its annual certification filing under 47 C.F.R. §§ 54.513 and 54.314, NPCR, Inc. d/b/a Nextel Partners, the first wireless carrier to qualify as an ETC, agreed to submit records and documentation on an annual basis detailing: (1) its progress

¹⁰ Petition at 24.

¹¹ See Highland Cellular Order, 19 FCC Rcd at 6431, para. 20; Virginia Cellular Order, 19 FCC Rcd at 1574-75, para. 26.

toward meeting its build-out plans; (2) the number of complaints per 1,000 handsets; and (3) information detailing how many requests for service from potential customers were unfulfilled for the past year.¹² SI Wireless stated in the application that it is prepared to make similar compliance filings.¹³ The Commission finds that SI Wireless should be required to file this information and make any other information as it relates to service available to the Commission.

ANNUAL CERTIFICATION AND VERIFICATION

In compliance with FCC Rules, SI Wireless has agreed to have policies and procedures in place to verify eligibility of prospective Lifeline customers.¹⁴ SI Wireless will require prospective Lifeline customers to provide documentation to verify eligibility to support the application in compliance with 47 C.F.R. § 54.410.¹⁵ SI Wireless will also recertify all subscribers in accordance with 47 C.F.R. § 54.410(f).¹⁶ The Commission finds that SI 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:

¹² Case No. 2003-00143, Petition of NPCR, Inc. d/b/a Nextel Partners for Designation as an Eligible Telecommunications Carrier in the State of Kentucky, (Dec. 16, 2004).

¹³ Petition at 14.

¹⁴ *Id.* at 18.

¹⁵ *Id.* at 19.

¹⁶ *Id.*

1. SI Wireless is designated as an ETC for the exchanges of the Rural and Non-rural Telephone Companies identified in the Appendix to this Order.

2. During the current certification period, SI Wireless shall be eligible to receive High-Cost and Low-Income Federal Universal Service Funds and State Universal Service Fund support for Lifeline.

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

4. SI Wireless shall offer these services using its own facilities or a combination of its own facilities and resale of another carrier's services, including the services offered by another ETC.

5. Pursuant to 47 C.F.R. § 54.201(i), SI Wireless shall be precluded from offering universal service support exclusively through the resale of another carrier's services.

6. SI Wireless shall advertise the availability of and charges for these services using media of general distribution.

7. SI Wireless must file its compliance information as stated herein and its annual certification with the Commission by September 1 in accordance with the requirements of Administrative Case No. 381.¹⁷

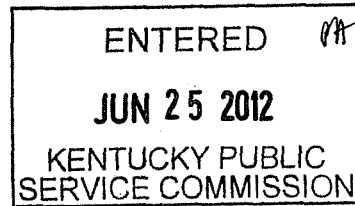
8. SI Wireless must comply with the FCC's annual certification process for Lifeline customers in accordance with the requirements of 47 C.F.R. § 54.410(f).¹⁸

¹⁷ Administrative Case No. 381, A Certification of the Carriers Receiving Federal Universal Service High-Cost Support (Ky. PSC Sept. 24, 2008).

¹⁸ Administrative Case No. 2012-00146, Lifeline Reform (Ky. PSC May 1, 2012).

9. A copy of this Order shall be served upon the FCC and the Universal Service Administrative Company.

By the Commission



ATTEST:

Stephanie Bell for Jeff Dorman
Executive Director

Case No. 2012-00145

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2012-00145 DATED JUN 25 2012

Designated Areas for which SI WIRELESS is Granted ETC Designation

1. Non-Rural ILEC Wire Centers

265182 BellSouth Telecommunications, LLC dba AT&T Kentucky – KY

FLTNKYMA	FRDNKYMA	SEBRKYMA	SLGHKYMA	STRGKYMA
GBVLKYMA	HANSKYMA	HCMNKYMA	LFYTKYMA	MARNKYMA
MDVIKYMA	MGFDKYMA	MRRYKYMA	MYFDKYMA	NEBOKYMA
PDCKKYIP	PDCHKYLO	PDCKKYMA	PDCHKYRL	AURRKYMA
BNTNKYMA	PRTNKYES	PRVDKYMA	CADZKYMA	CLAYKYMA
CLTNKYMA	CNTNKYMA	DIXNKYMA	DWSPKYMA	EDVLKYMA
UNCYTNMA*				

* Only to the extent this exchange is located in KY

2. Rural ILEC Wire Centers

260396 Ballard Rural Telephone Cooperative Corporation, Inc.

BNDNKYXA	BRLWKYXA	GAGEKYXA	HETHKYXA	KEVLKYXA
LACTKYXA	WCKLKYXA			

260417 Salem Telephone Company

SALMKYXA				
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260421 West Kentucky Rural Telephone Cooperative Corporation, Inc.

CNHMKYXA	FLDLKY01	FNFMKYXA	FRNGKYXA	FRTNKYXA
HAZLKYXA	HRDNKYXA	KRKSKYXA	LOWSKYXA	LYGVKYXA
LYVLKYXA	NWCNKYXA	SDLIKYXA	WINGKYXA	WPLNKYXA

260691 Windstream Kentucky East, Inc. - London

ARTNKYXA	BRWLKYXA	CLCTKYXA	CLMBKYXA	MLBNKYXA
SMLDKYXA				

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