

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF TRUE WIRELESS, LLC FOR)
DESIGNATION AS AN ELIGIBLE) CASE NO.
TELECOMMUNICATIONS CARRIER IN KENTUCKY) 2011-00451

O R D E R

On November 18, 2011, the Federal Communications Commission ("FCC") issued its Connect America Fund and Intercarrier Compensation Order ("FCC Order").¹ That Order contained provisions addressing the designation of Eligible Telecommunications Carriers ("ETCs"). On December 23, 2011, the FCC issued an order further clarifying ETC requirements.²

The FCC's Order modifies the list of services that carriers must provide in order to obtain ETC designation (§ 54.101 (a)). The Order removes customer access to

¹ See 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 Service Support, Developing an Unified Intercarrier Compensation Regime, 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, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011).

² See 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 Service Support, Developing an Unified Intercarrier Compensation Regime, 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).

operator services and directory assistance from the required services to be offered by ETCs. Therefore, customer access to operator services and directory assistance services is no longer supported by federal universal service support mechanisms under Section 254(c). The requirements that a carrier must fulfill in order to be granted ETC status are defined in 47 C.F.R. § 54.201(d). Under Section (d), 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.”

On November 16, 2011, True Wireless, LLC (“True Wireless”) filed a petition for designation as an ETC for the limited purpose of offering wireless Lifeline and Link-Up services. In that petition, the only services True Wireless offers over its own facilities are access to operator services and access to directory assistance.³ Each of the other supported services are offered through a resale agreement with another carrier.⁴ Applying the FCC Order to True Wireless’ petition, the Commission finds that ETC designation can no longer be granted to carriers relying solely on one or more of the services that have now been excluded from the list of supported services by the FCC’s revision of § 54.101(a). True Wireless did not state in its petition that it will provide any other services besides access to operator services and directory assistance using a combination of its own facilities and resale of another carrier’s services. Therefore, the Commission finds that the petition as filed by True Wireless fails to meet certain prerequisite conditions for it to be designated as and ETC in Kentucky.

³ Petition at pages 4-5.

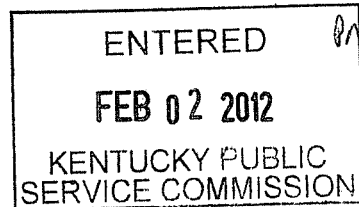
⁴ Id. at 5.

The Commission finds that the petition should be dismissed without prejudice for failure to meet the qualifications of an ETC. If, in the future, True Wireless meets the qualifications necessary to be designated as an ETC, it may submit a new petition.

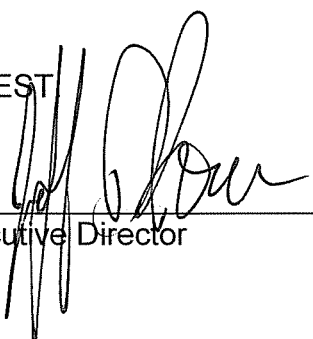
The Commission will not act on True Wireless' petition for confidentiality for certain items contained in Exhibit A. The alleged confidential material will be returned to True Wireless' counsel.

IT IS HEREBY ORDERED that the petition of True Wireless is dismissed without prejudice for failure to meet the qualifications of an ETC.

By the Commission



ATTEST



Executive Director

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