

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the)	Application No. C-4528/
Application of GCIA Corp.)	NUSF-84
d/b/a STAND UP WIRELESS)	
seeking designation as an)	
Eligible Telecommunications)	GRANTED
Carrier in the State of)	
Nebraska for the limited)	
purpose of participating in)	
the Lifeline program.)	Entered: March 5, 2013

APPEARANCES:

For the Applicant:

Russell A. Westerhold
500 Energy Plaza
409 South 17th Street
Omaha, NE 68102

For the Commission:

Nichole A. Mulcahy
1200 N Street
Suite 300
Lincoln, NE 68508

Background

By Application filed with the Nebraska Public Service Commission ("Commission") on October 4, 2012, GCIA Corp. d/b/a Stand Up Wireless ("Stand Up" or "Company"), seeks designation as an Eligible Telecommunications Carrier ("ETC") for the limited purpose of receiving federal and state universal service support for participating in the low income programs of the Federal Universal Service Fund ("USF"), the Lifeline program, and the Nebraska Universal Service Fund ("NUSF"), called the Nebraska Telephone Assistance Program ("NTAP"), on a wireless basis. Stand Up seeks designation pursuant to Section 214(e) of the Telecommunications Act of 1996, as amended (the "Act"), and provisions of Nebraska Administrative Code, Title 291, Chapter 5 and Chapter 10, ("Commission Rules"). Stand Up does not seek USF or NUSF high-cost support. Notice of the Application was published in The Daily Record, Omaha, Nebraska, on October 9, 2012. No protests or interventions were filed.

A Hearing on the Application was held on February 12, 2013, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

E V I D E N C E

Dave Skogen, Chief Executive Officer of Stand Up, testified at the hearing via video link on behalf of the Company. Stand Up's application states that Stand Up provides prepaid wireless services that are affordable and easy to use and attractive to low-income and low-volume users. The Company's application and witness stated it meets all the statutory and regulatory requirements for designation as an ETC and a Nebraska ETC in the State of Nebraska. Mr. Skogen testified that Stand Up's service is especially attractive to low income consumers and is seeking ETC status to participate in Lifeline and NTAP, the name given to Lifeline in Nebraska, to provide Nebraska customers with access to affordable wireless services.¹

Stand Up's application and witness stated that Global Connection Inc. of America ("GCIA") is a Georgia corporation with its principal offices located in Norcross, Georgia. GCIA provides local exchange telecommunications services throughout the United States and is designated as a wireline ETC in Alabama, Arkansas, Georgia, Louisiana, Michigan, and North Carolina.

GCIA provides Commercial Mobile Radio Services ("CMRS") throughout the United States under its d/b/a Stand Up Wireless, providing prepaid wireless telecommunications services to consumers using the Sprint PCS and Verizon Wireless networks on a wholesale basis. Stand Up has been designated as an ETC in Arkansas, Louisiana, Maryland, Michigan, Minnesota, Missouri, Wisconsin and West Virginia, and has applications for ETC designation in Arizona, Georgia, Illinois, Kansas, Massachusetts, New Jersey, Ohio, Pennsylvania, Puerto Rico, Texas, and Washington.

GCIA is registered with the Nebraska Secretary of State's office and has been duly authorized to conduct business in Nebraska. A copy of the applicable Certificate of Authority to

¹ Application No. C-4528/NUSF-84, Prefiled Direct Testimony of Dave Skogen, Hearing Exhibit No. 5, at P. 2-3.

Transact Business is attached to the Company's application as Exhibit 2. Stand Up has not been the subject of any formal or

informal investigations by any state or federal agency, or the Universal Service Administration Company.

The Company states it is seeking ETC designation throughout the state in the non-rural and rural service territories in Nebraska for the limited purpose of participating in the Lifeline and NTAP programs. A list of the exchanges in which Stand Up is requesting limited ETC and NETC designation are identified in Exhibit 7 attached to the Company's Application.

The Company states its service offering will provide customers with the same features and functionalities enjoyed by all Stand Up prepaid customers. Lifeline customers will have several service plans to choose from. The standard StandUp 100 plan will provide each Lifeline customer with 100 free anytime local and long distance minutes and 100 free SMS text messages with any unused minutes rolling over from month to month. In addition to the StandUp 100 plan, Lifeline customers will also have the option of selecting one of the Company's alternative plans which allows customers to receive additional voice minutes and texts at subsidized rates. If a Lifeline customer selects one of the alternative plans, the Lifeline subsidy will be applied to the retail rate of the alternative plan. Each customer will also have the option of purchasing additional time. Finally, each Lifeline customer will receive a free wireless handset from Stand Up, delivered to the customer once eligibility for NTAP is established.

Mr. Skogen stated that Stand Up has had significant growth over the last several years and Nebraska is important as the company believes it can bring significant value to consumers of Nebraska with operational efficiencies with surrounding states.² Mr. Skogen further testified that the company plans to market and provide service throughout the state and not just in the Lincoln and Omaha areas.³ Mr. Skogen also stated that Stand Up partners with different retailers to sell their service, usually

² Application No. C-4528/NUSF-84, Hearing Transcript, 9:19 - 10:5. (Hereinafter "TR page number:line number").

³ TR 13:16-25.

smaller retail outlets, clarifying that Stand Up has not pursued relationships with big box national retailers.⁴

Stand Up stated that it satisfies both state and federal requirements to be designated as an ETC and NETC in Nebraska. Stand Up has received forbearance from the Federal Communications Commission ("FCC") from the requirement to use its own facilities at least in part contained in Section 214(e)(1)(A). The Company filed a Compliance Plan with the FCC that received approval on May 25, 2012. A copy of the approved Compliance Plan was included with the Company's application as Exhibit 4.⁵

Stand Up also demonstrated that it is a common carrier as defined by the FCC and provides all the required services and functionalities to participate in the Lifeline and NTAP program. Further, the Company committed to advertising the availability of supported services using media of general distribution. Finally, Stand Up committed to comply with all the Nebraska-specific requirements for ETCs and NETCs, including, but not limited to, only using the approved NTAP enrollment form and reporting requirements.

O P I N I O N A N D F I N D I N G S

Section 214(e) of the Act sets forth the standards and processes for a state commission to grant carriers the designation of a federal eligible telecommunications carrier. Nebraska Administrative Code, Title 291, Chapter 5, §§ 009.01-009.02C and Chapter 10, § 004 of the Commission Rules contain the requirements for Commission designation of ETCs and NETCs. The Commission's rules largely reflect the FCC requirements. As Stand Up is only seeking ETC designation for purposes of participating in Lifeline and NTAP, the Commission will not consider the issues and requirements regarding high cost support.

⁴ TR 14:9-21.

⁵ *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, FCC 12-11 (rel. February 6, 2012)("Lifeline Reform Order").

The three general requirements listed in Section 214(e) are: 1) the carrier must be a common carrier; 2) the carrier must offer the services supported by the federal fund; and 3) the carrier must advertise the availability of those services. The carrier must also demonstrate the ability to fulfill the requirements throughout the service area for which the carrier is seeking ETC designation.

Common Carrier

The Act defines a common carrier as a person engaged as a common carrier on a for-hire basis in interstate communications utilizing either a wire or radio technology.⁶ The FCC's rules also specifically provide that CMRS providers, like the Applicant, are treated as common carriers.⁷ Upon review of the Application and testimony presented, the Commission finds that Stand Up is a common carrier for purposes of ETC designation.

Supported Services

Chapter 47 C.F.R. Sections 54.101(a) and 54.202(a) of the FCC's Rules and Section 009.02A2 of the Commission Rules require an ETC to demonstrate that it will offer the services that are supported by federal universal service. The FCC's supported services were revised in its *Lifeline Reform Order* and are as follows:

- a. voice-grade access to the public switched network or its functional equivalent;
- b. minutes of use for local service without additional charge to the end user;
- c. access to emergency services; and
- d. toll limitation for qualifying low-income consumers.⁸

Voice Grade Access to the Public Switched Network

⁶ See 47 C.F.R. § 153(10).

⁷ See 47 C.F.R. § 54.20.9(a).

⁸ See 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 a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform - Mobility Fund, 76 Fed. Reg. 73830 (2011)(to be codified at 47 C.F.R. pts. 0,1,20,36,51,54,61,64 and 69)("CAF Order") at ¶ 78.

Stand Up provides voice grade access to the public switched network through the purchase of wholesale CMRS services from Sprint and Verizon, its underlying carriers as required under 47 C.F.R. § 54.101(a).

Local Usage

Stand Up's proposed low income wireless offering under its Lifeline Plan offers a variety of rate plans that provide customers with minutes of local use at no additional charge. Under Stand Up's plan, eligible subscribers receive 100 free voice minutes per month and 100 free texts per month with no additional activation fees or other charges.⁹

Access to Emergency Services

The Company states that it complies with all FCC regulations governing the deployment and availability of E911 compatible handsets. The handsets provided to eligible customers, at no additional charge, are emergency service-compatible. Stand Up states it will provide its customers access to 911 or E911 services, regardless of whether the customer has minutes remaining on the plan and will not deduct such calls from the customer's usage. Further, the Company committed to ensuring that all of its Lifeline customers have 911 complaint handsets, including replacing any non-conforming handsets in use by Lifeline customers.¹⁰

Toll Limitation for Qualified Low-Income Customers

Regarding toll limitations, the FCC has found that toll limitation would no longer be deemed a supported service.¹¹ The FCC further found that ETCs that provide Lifeline customers with a set amount of minutes and do not distinguish between toll and non-toll calls are not required to provide toll limitation

⁹ See Stand Up Wireless Verified Application, Hearing Ex. 1, at PP. 5-7.

¹⁰ See Stand Up Wireless Verified Application, Hearing Ex. 1, at Exhibit 4, Global Connection of America Compliance Plan, WC Docket Nos. 09-197 and 11-42 (filed April 30, 2012) at P. 3.

¹¹ See Lifeline Reform Order at ¶ 367.

service.¹² Stand Up provides prepaid wireless services, which by its very nature, provides effective toll limitation, providing a set amount of minutes and not distinguishing between toll and non-toll minutes.¹³

Other Services

In addition to the required supported services, Stand Up will also provide dual tone multi-frequency signaling, or its functional equivalent, single-party service or its functional equivalent, access to operator services, access to interexchange services, and access to directory assistance by dialing "411" on the wireless handset.¹⁴

Upon review of the Application and testimony presented, the Commission finds that Stand Up has the ability and has committed to provide the supported services listed above.

Facilities Requirement

Section 009.02A2 of the Commission Rules requires an ETC to demonstrate that it will offer the supported services above using either its own facilities or a combination of its own facilities and resale of another carrier's services.

However, the FCC, in its *Lifeline Reform Order* has granted blanket forbearance to all carriers seeking only Lifeline support. Carriers wishing to avail themselves of the forbearance must file a compliance plan with and receive FCC approval of such plan.¹⁵ Stand Up states in its verified Application that it has filed its Compliance Plan and received FCC approval on May 25, 2012.¹⁶

¹² *Id.* at ¶ 49.

¹³ See *Virgin Mobile Order*, 24 FCC Rcd at 3394 ¶ 34.

¹⁴ See Stand Up Wireless Verified Application, Hearing Ex. 1, at P. 14.

¹⁵ See *Lifeline Reform Order* at ¶¶ 368, 373, and 379.

¹⁶ See Stand Up Wireless Verified Application, Hearing Ex. 1, at PP. 11-12.

We find that Stand Up, with the approval of its Compliance Plan by the FCC, has met the requirements of Rule Section 009.02A2.

Advertising Supported Services

Section 009.02A3 of the Commission Rules requires an ETC to advertise the availability of supported services and related charges using media of general distribution. ETCs must also publicize the availability of Lifeline or NTAP services in a manner reasonable calculated to reach those that qualify for the service.

Based on the Application, we find Stand Up has provided sufficient commitments to advertise the availability of such services and charges using media of general distribution and in a manner that is designed to reach those likely to qualify for such services. Stand Up's verified Application states that the Company will use a wide range of outreach tools including mass media, outreach events, and community and charitable involvement along with a network of retail partners.¹⁷

Designated Service Area

We find Stand Up has properly identified the service area in which it is seeking ETC designation. Stand Up seeks designation as an ETC in the non-rural and rural areas identified in Exhibit 7 to its verified application for participation in the Lifeline and NTAP programs only. The Company acknowledges it is seeking ETC designation in rural areas that are served by rural carriers; however, the Company states the public interest factors described in its Application and at the hearing justify its designation as a Lifeline/NTAP only ETC in those areas.

Provisioning of Continuous Service

Rule 009.02A4 of the Commission Rules requires that an ETC not only demonstrate the ability and commitment to providing the supported services listed above, but must also demonstrate the ability to continuously provide such services in its designated Service Area. We find upon our review of the Application and testimony that Stand Up has demonstrated and committed to

¹⁷ See Stand Up Wireless Verified Application, Hearing Ex. 1, at PP. 14-15.

providing the supported services listed above continuously throughout its Service Area.

Provision of Service to Requesting Customers

Section 009.02A5 of the Commission's Rules require an ETC to demonstrate its commitment to provide service throughout the designated area to all customers who make a reasonable request for service.

As demonstrated by Stand Up in the Company's Application, the Company is currently able to provide the Supported Services throughout its requested service areas by reselling the service

which it obtains from its underlying facilities-based providers Sprint and Verizon. We find that Stand Up has demonstrated an ability and commitment to satisfy its obligation to provide service upon reasonable request throughout the Company's requested service areas.

Ability to Remain Functional in Emergency Situations

Section 009.02A7 of the Commission's Rules requires an ETC applicant to demonstrate an ability to remain functional during emergency situations. This provision of the Rules only applies to companies seeking high-cost support, however, Stand Up in its verified Application demonstrated that it will provide its customers with the same level of emergency functionality as the ILECs provide to their own customers. Stand Up will provide access to a reasonable amount of back-up power to ensure functionality without an external power source, has the ability to reroute traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

Public Interest

Rule 009.02A1 of Chapter 5 of the Commission Rules requires any company seeking ETC designation to demonstrate that such designation is consistent with the public interest, convenience, and necessity. The public interest consideration may include the benefits of increased consumer choice and the unique

advantages and disadvantages of the Applicant's service offerings.¹⁸

In its Application, Stand Up states the public interest benefits of the Company's wireless service include a larger local calling area, the convenience and security afforded by a mobile telephone service, the opportunity for customers to control cost by receiving a preset amount of monthly airtime at no charge, with the ability to purchase additional usage as needed, 911 and E911 service, and exceptional customer service. The Company also states designating Stand Up as an ETC will increase the provision of advanced communications services to low-income residents of Nebraska. Stand Up committed to comply with the Cellular Telecommunications and Internet Association's

(CTIA) Consumer Code for Wireless Service and further committed to satisfying all applicable state and federal guidelines related to consumer protection and service quality standards. Additionally, Stand Up committed to comply with the applicable rules and regulations of the Commission. Based on the evidence before us, we conclude that Stand Up's service offerings will provide a public interest benefit and its business plan provides a unique advantage to low-income consumers. We find Stand Up has demonstrated that its designation as an ETC would be consistent with the public interest, convenience, and necessity.

Nebraska ETC Designation

Rule 004.04A and 004.04B of Chapter 10 of the Commission Rules requires carriers designated as ETC for purposes of receiving USF support to participate in NTAP and comply with Section 006 of Chapter 10 of the Commission Rules or the "NTAP Rules". Stand Up in its Application committed to complying with the Commission's orders, rules and regulations regarding NTAP including the requirement to use only the Commission's approved NTAP Application Form, requirements regarding additions and removals of NTAP subscribers from the NTAP program and the semiannual reporting of NTAP customer lists. Stand Up further committed to complying with those requirements recently adopted by the FCC in its *Lifeline Reform Order* to annually verify the eligibility of NTAP subscribers¹⁹ in cooperation with the NTAP Department of the Commission.

¹⁸ See 47 C.F.R. § 54.202(c).

¹⁹ Lifeline Reform Order at PP. 240-242.

Conclusion

In summary, upon review of the Application and evidence presented at the hearing, we find the Applicant has demonstrated that it meets the standards set forth in 47 U.S.C. § 214(e), the supplemental requirements set out in the *Lifeline Reform Order*, and applicable state and federal law for the designation of eligible telecommunications carriers in the proposed geographic area for the limited purpose of participation in the Lifeline and Nebraska Telephone Assistance Program and the Application should be approved.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-4528/NUSF-84, should be and it is hereby granted and GCIA Corp. d/b/a Stand Up Wireless, is designated as an eligible telecommunications carrier in the State of Nebraska for the limited purpose of receiving federal universal service support to participate in the Lifeline program as requested in the Application consistent with the findings and conclusions made herein.

IT IS FURTHER ORDERED that GCIA Corp. d/b/a Stand Up Wireless is hereby declared to be a Nebraska Eligible Telecommunications Carrier for the limited purpose of receiving state universal service support to participate in the Nebraska Telephone Assistance Program.

IT IS FURTHER ORDERED that GCIA Corp. d/b/a Stand Up Wireless, shall file information with the Commission evidencing it is advertising through media of general distribution on or before July 1st each year hereafter.

IT IS FINALLY ORDERED that GCIA Corp. d/b/a Stand Up Wireless shall file a copy of this Order with the Universal Service Administrative Company ("USAC") and the FCC to commence its receipt of federal universal service support effective as of the date of this Order.

MADE AND ENTERED at Lincoln, Nebraska, this 5th day of March, 2013.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director

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COMMISSIONERS CONCURRING:

Tim Schram

Anne Boyle

Chair

Dee Johnson

ATTEST:

Frank E. Landis

Steve Meradith

Executive Director

//s//Anne C. Boyle
//s//Frank E. Landis