

APPENDIX "A"

In the Matter of the Application)	Application No. C-4622/NUSF-90
of i-wireless, LLC, Newport,)	
Kentucky, seeking limited)	GRANTED
designation as a Lifeline-only)	
Eligible Telecommunications)	
Carrier in the State of)	
Nebraska.)	Entered: June 16, 2015

APPEARANCES:

For the Applicant:

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Omaha, Nebraska 68512

For the Commission:

Shana Knutson
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BY THE COMMISSION:

On July 25, 2013, an application was filed by i-wireless, LLC ("i-wireless" or "Applicant"), of Newport, Kentucky, seeking designation as an Eligible Telecommunications Carrier (ETC) so it may receive available support from the federal and Nebraska universal service funds for the Lifeline and Nebraska Telephone Assistance Programs. Notice of this application was published in the Daily Record, Omaha, Nebraska, on July, 30, 2013. No other party protested the application or filed a Petition seeking Formal Intervention.

A hearing on the application was held on May 12, 2015, in the Commission Hearing Room, Lincoln, Nebraska. Appearances at the hearing are indicated above. i-wireless presented one witness in support of its application.

Summary of Testimony and Evidence

Applicant is a North Carolina Limited Liability Company. Its principal office is located in Newport, Kentucky. Applicant is a provider of commercial mobile radio service ("CMRS") throughout the United States and provides prepaid wireless

telecommunications services to consumers by using the Sprint Spectrum, L.P. network on a wholesale basis. Applicant obtains from Sprint the network infrastructure, including wireless transmission facilities, to allow it to operate as a Mobile Virtual Network Operator.

Applicant presented one witness, Eric Schimpf, who serves as Director of New Business Development for the company. In his pre-filed testimony, Mr. Schimpf described how i-wireless satisfied each of the applicable federal and state prerequisites for designation as a competitive ETC for Lifeline, known in Nebraska as the Nebraska Telephone Assistance Program (NTAP), services throughout the Company's requested service areas in Nebraska. Applicant is not seeking eligibility for high-cost support from the state or federal universal service funds.

Applicant seeks a Lifeline-only ETC and NETC designation in the Nebraska wire centers listed in the appendix to this Order. Applicant plans to offer its Lifeline service under the brand name "Access Wireless." Applicant offers a couple of different plans for Lifeline customers. First it offers a 250 Anytime Minutes Plan where Applicants receive a free handset and 250 anytime minutes per month. Second, applicant offers a retail discount plan which allows Lifeline eligible customers to choose from any i-wireless monthly retail plan (except a text only plan) at a \$15 discount. Customers can change their plan on their monthly plan date, without penalty. Applicant does not assess charges for activation or connection of service. The 250 minute plan includes all applicable taxes and fees. Minutes are credited to a customer's account at the beginning of every 30-day cycle. Customers may place calls to customer service and 911 for free, regardless of account balance or activation status.

In addition, through Applicant's partnership with Kroger Co. ("Kroger") the nation's largest grocery retail chain, customers can accumulate free minutes for dollars spent at participating Kroger-owned store locations simply by using their Kroger loyalty shopper's card. Customers can purchase additional airtime if needed. Additional airtime may be purchased at Kroger-owned stores, over the phone, or online. Applicant sends low and depleted balance alerts in the form of a free text message to the customer and also alerts the customer through a free text message when minutes have been added to their account.

Applicant stated that it satisfies all of the applicable requirements for ETC and NETC designation in Nebraska. Nexus demonstrated it is a common carrier as defined by the FCC and provides all of the services and functionalities supported by the universal service program. Nexus also committed to advertise the availability of these services using media of general distribution. Finally, Applicant agreed to comply with Nebraska-

specific ETC and NETC requirements including, but not limited to, audit and reporting requirements.

Applicant has obtained forbearance of the facilities requirement by meeting the requisite criteria laid out by the FCC.¹ On September 9, 2011, Applicant submitted an amended Compliance Plan with the FCC in WC Docket No. 09-197 and WC Docket No. 11-42.² The Compliance Plan details the verification, certification and other anti-fraud measures Applicant will take to comply with state and federal requirements and ensure that Lifeline support is provided only to consumers who are truly eligible. Applicant's Compliance Plan was submitted as Exhibit 5 to Applicant's application. On October 21, 2011, the FCC issued a Public Notice that it had approved Applicant's Compliance Plan.

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

Section 214(e) of the Telecommunications Act of 1996 (the Act) initially set forth the standards and processes for a state commission to grant carriers the designation of an eligible telecommunications carrier. The three general requirements listed in Section 214(e) are that: (1) the carrier must be a common carrier; (2) the carrier must offer the "services" that are supported by the federal fund; and (3) the carrier must advertise the availability of those services. In addition, the carrier must fulfill these criteria throughout the service area for which the designation is received.

In its *Lifeline Reform Order*, the FCC revised 47 C.F.R. § 54.101(a) to read as follows:

- (a) Services designated for support. Voice telephony services shall be supported by federal universal service support mechanism. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911 systems. .

¹ See *i-wireless, LLC, Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, filed April 1, 2009 ("*Petition for Forbearance*"), Order, FCC 10-117 (rel. June 25, 2010) ("*i-wireless Forbearance Order*").

² See Third Amended Compliance Plan of Nexus Communications, Inc., WC Docket Nos. 09-197 and 11-42 (filed Dec. 4, 2012) approved in Public Notice DA 12-2063 on December 26, 2012.

.; and toll limitation to qualifying low-income consumers as provided in subpart E of this part.³

Federal law also requires the Commission to determine that the ETC is financially and technically capable⁴ of providing the supported Lifeline service and that the designation of an ETC would be consistent with the public interest.⁵ 47 U.S.C. § 214(e)(2). The FCC offered additional guidance on the public interest question through its past decisions.⁶

To implement the forgoing federal requirements and FCC guidance, the Commission has adopted regulations governing the application process and ETC designation requirements in the State of Nebraska ("ETC designation rules"). The Commission's ETC designation rules are found at Neb. Admin. Code, Title 291, Ch. 5, §§ 009.01-009.02C. The Commission's annual reporting rules are codified at Neb. Admin. Code, Title 291, Ch. 5, §§ 009.03-009.04B.

Common Carrier

Upon review of the application and testimony presented, the Commission finds that Applicant is a common carrier for purposes of ETC designation. The Act defines a common carrier as a person engaged as a common carrier on a for-hire basis in interstate communications utilizing either wire or radio technology. 47 U.S.C. § 153(10). The FCC's Rules also specifically provide that CMRS is a common carrier service. 47 C.F.R. § 54.20.9(a).

³ 47 C.F.R. § 54.101(a)(April 2, 2012).

⁴ See 47 C.F.R. § 54.201(h).

⁵ See 47 U.S.C. § 214(e)(2); see also 47 C.F.R. § 54.201(c).

⁶ See *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket 96-45, Memorandum Opinion and Order, FCC 03-338 (rel. Jan 22, 2004) ("Virginia Cellular"); *In the Matter of Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket 96-45, Memorandum Opinion and Order, FCC 04-37 (rel. April 12, 2004) ("Highland Cellular"); and *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order, FCC 05-46 (rel. March 17, 2005) ("March 2005 Order").

Supported Services

We further find that Applicant has demonstrated the ability and commitment to provide the Supported Services listed above using its own network facilities or a combination of its own facilities and the resale of another carrier's services. Applicant's application states it will make service available to consumers through underlying carriers including Sprint.

Voice Grade Access

Applicant stated its subscribers will receive voice grade access. Applicant will provide its customers with the ability to make and receive calls on the public switched telephone network.

Local Usage

Applicant stated that it will provide a variety of rate plans to provide its customers with minutes of use for local service at no additional charge.

We find that Applicant meets the local usage requirement.

Access to Emergency Services

The Applicant provided evidence of its ability to remain functional during emergency situations. Applicant provides 911 and E911 access for all of its customers to the extent the local government in its service area has implemented 911 or E911 systems. Applicant also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets.

Advertising

We find that Applicant has provided sufficient evidence of its commitments to advertise the availability of and charges for the Supported Services using media of general distribution. The application provided that Applicant will advertise through a combination of media channels such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet.

Designated Service Areas

We find that Applicant has properly identified the service areas in which it is requesting ETC designation. Applicant seeks to be designated as an ETC throughout each of the non-rural telephone company service areas identified in Exhibit A to its application for the purpose of receiving Lifeline/NTAP support only.

Provision of Service to Requesting Customers

Pursuant to Section 009.02A5 of the Commission's ETC designation rules, an Applicant must demonstrate its commitment to provide service throughout its designated service area to customers who make a reasonable request for service. Applicant demonstrated it was capable of providing service and committed to providing service dedicated to support as defined in 47 C.F.R. § 54.101. We find Applicant has sufficiently demonstrated its commitment to provide service throughout its designated service area to customers making a reasonable request for service.

Ability to Function During Emergencies

Pursuant to Section 009.02A7 of the Commission's ETC designation rules, Applicants must demonstrate an ability to remain functional during emergency situations. Although this requirement applies to carriers seeking high-cost support which Applicant is not, Applicant demonstrated it satisfies this requirement. Applicant will provide services through the use of facilities obtained from a major carrier and will provide to its customers the same ability to remain functional in emergency situations as is currently provided by the vendor to its own customers including a reasonable amount of back-up power to ensure functionality without an external power source, re-routing of traffic around damaged facilities, and the capability to manage traffic spikes in the event of emergency situations.

Public Interest

Public interest considerations may include the benefits of increased consumer choice and the unique advantages of the Applicant's service offering. In support of this requirement, Applicant stated that its designation will serve the public interest and the needs of low-income consumers. Further, Applicant states it has specifically tailored its wireless service plans to the needs of underserved customers by offering a limited voice service for free and an expanded plan at

affordable rates. Applicant has adopted the CTIA Consumer Code for Wireless Service and has committed to using its best efforts to resolve complaints received by the Commission. In addition, Applicant confirmed its intention of meeting consumer protection and service quality standards by committing to comply with all applicable Nebraska statutes and rules and regulations and paying all applicable federal, state, and local regulatory fees, including universal service and E-911 surcharges. Based on the particular facts before us, we find Applicant's business plan provides a unique advantage to low-income consumers that would serve the public interest. We conclude Applicant demonstrated that its designation as an ETC would be consistent with the public interest, convenience, and necessity.

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.

Lifeline Certification and Verification Requirements

The Commission utilizes a coordinated enrollment process to initially enroll and certify Lifeline/NTAP subscriber eligibility. The Commission maintains an agreement with the Nebraska Department of Health and Human Services (NDHHS) to determine whether a subscriber participates in a number of qualifying programs. In addition, all subscribers of the ETCs service offerings are required to utilize the Commission's NTAP Application Form for enrollment. At the hearing, Applicant committed to comply with the Commission's requirements relative to Lifeline/NTAP certification, verification and use of the Commission's application form. Applicant will also be required, on a monthly basis, to provide the Commission with a list of all subscribers added or removed and a full report of all Lifeline/NTAP subscribers twice annually. Applicant committed to following these requirements.

In addition, Applicant shall also notify the Department in advance of any promotional events provided at temporary locations or structures in its designated service territory. Notification of at least five (5) calendar days, where possible, will be provided. However, in no instance shall notice to the Commission be provided later than notice of a promotional event is provided to consumers. In cases where a temporary promotional location has changed, Applicant will notify the Department of its new or revised location.

Continuing Jurisdiction

Finally, the Commission has jurisdiction and authority to ensure that Applicant continues to meet the ETC criteria set forth in Section 214(e) of the Act and the Commission's rules and regulations. Nothing prevents the Commission from, on its own motion, modifying, suspending, or revoking Applicant's ETC designation if it at any time fails to meet the obligations of the Act, applicable federal rules, Commission rules and regulations, or if it fails to provide the supported services within a reasonable time frame.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the application of i-wireless, LLC, to be designated as an Eligible Telecommunications Carrier for the limited purpose of receiving low-income program (Lifeline/NTAP) universal service support shall be, and is hereby, granted.

IT IS FURTHER ORDERED that i-wireless, LLC, 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 FURTHER ORDERED that i-wireless, LLC, is hereby declared to be an Eligible Telecommunications Carrier for the purpose of receiving low-income program (Lifeline/NTAP) universal service support in the wire centers identified in **Appendix A** to this Order.

IT IS FINALLY ORDERED that i-wireless, LLC, 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.

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GLENWOOD TELEPHONE MEMBERSHIP CORP.
GREAT PLAINS COMMUNICATIONS, INC.
GREAT PLAINS COMMUNICATIONS, INC.
GREAT PLAINS COMMUNICATIONS, INC.
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HAMILTON TELEPHONE CO.
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OMAHA
ELM CREEK
FREMONT
GRAND IS
OMAHA
HUMPHREY
TEKAMAH
MINDEN
NORFOLK
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OMAHA
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TEKAMAH
OMAHA
WOOD RIVER
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COLUMBUS
KEARNY
MADISON
PLATTE CTR
BLUE HILL
BEEMER
NORTH BEND
SCRIBNER
WISNER
AURORA
DONIPHAN
GILTNER
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STOCKHAM
HENDERSON
HOOPER
GIBBON
DECATUR
LNWDMRSBLF
ASHLAND
BELLWOOD
BENEDICT
BEAVERCSNG
CRETE
CORTLAND
CERESCO
DAVEY
EAGLE
FIRTH
GREENWOOD
HANSEN
HICKMAN
HALLAM
HASTINGS
LINCOLN
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LOUISVILLE
MCCOOL JCT
MEAD
MURRAY
MARTELL
NEBRASKACY
PLEASANTDL
PLATTSMTN
TAMORA
UNION
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WAVERLY
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SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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MADE AND ENTERED at Lincoln, Nebraska, this 16th day of June, 2015.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Tim Schram

Chairman

Gerald Vap

Dec Jones

ATTEST:

Cystal Knoder

Shane Knoder

Deputy Director

//s//Frank E. Landis

//s//Gerald L. Vap