

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. C-4847/
on its own motion, seeking to) NUSF-104
conduct an inquiry into the)
operations of Total Call Mobile,) ORDER INITIATING SHOW CAUSE
LLC and to Show Cause why the) AND SETTING HEARING
Commission should not suspend)
its Eligible Telecommunications)
Company Designation.) Entered: May 25, 2016

BY THE COMMISSION:

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

Pursuant to the federal Telecommunications Act of 1996, and Nebraska Telecommunications Universal Service Fund Act¹ ("NUSF Act"), the Nebraska Public Service Commission ("Commission") possesses the power and authority to designate and certify carriers as eligible telecommunications carriers (ETCs) for the purpose of participation in the Lifeline and Nebraska Telephone Assistance Program (NTAP).

On December 20, 2012, Total Call Mobile, Inc. ("Total Call" or "Company") applied for designation as an Eligible Telecommunications Carrier (ETC) for the purposes of receiving federal and state universal service funding for the provision of Lifeline.² Total Call is a Delaware corporation, with its headquarters located in Gardena, California. Total Call provides wireless telephone services to predominantly Lifeline consumers. At the hearing, Total Call committed to follow the requirements of federal and state law to "advertise the availability" of the Lifeline program in Nebraska.³ Total Call's witness testified it was ready to begin operations as a Lifeline provider upon designation.⁴

Total Call further committed to following the Compliance Plan approved by the FCC which served as the basis for designation in Nebraska.⁵ In addition, Total Call provided sworn testimony that

¹ See Neb. Rev. Stat. § 86-316 et seq. (Reissue of 2008).

² See *Application of Total Call Mobile, Inc. for Limited Designation as an Eligible Telecommunications Carrier*, Docket C-4550/NUSF-85 (December 20, 2012).

³ See Direct Testimony of Hideki Kato at 9.

⁴ See *id.* at 25.

⁵ See *id.* at 11.

its designation would serve the public interest and not place a burden on the federal universal service fund.⁶

Based upon these commitments and other promises made by the Applicant, the Commission designated Total Call Mobile, Inc., now known as Total Call, LLC, as an ETC for the limited purpose of receiving federal and state universal service support for participating in Lifeline and NTAP on July 13, 2013.

It has been over three years since Total Call's initial designation and it has not made any effort to advertise the availability of Lifeline in Nebraska contrary to the commitments and requirements of ETC designation. It has not made any effort to offer Lifeline service contrary to its testimony that it would begin upon designation.

Moreover, the Commission is concerned that Total Call's continued designation may jeopardize the integrity of the Lifeline and NTAP programs. On April 7, 2016, the Federal Communications Commission (FCC) issued a Notice of Apparent Liability (NAL) seeking to fine Total Call \$51 million for receiving millions of dollars in improper reimbursements from the federal universal service fund.⁷ According to the FCC, its investigation uncovered improper enrollment practices involving over 800 Total Call sales agents, who collectively generated tens of thousands of duplicate and ineligible consumer enrollments across at least thirteen states through various deceptive practices, including surreptitiously recording consumers' identifying information, enrolling individual consumers for multiple phones without their knowledge, and falsely claiming that ineligible consumers met the requirements to participate in the Lifeline program.⁸ The FCC found,

"Beyond these specific issues, [Total Call]'s apparent lack of eligibility policies and procedures, including its apparent violation of its own Compliance Plan, damaged the Fund nationwide, because it decreased the overall integrity of the program, and allowed additional improper enrollments."⁹

⁶ See *id.* at 19.

⁷ *In the Matter of Total Call Mobile, Inc.*, NOTICE OF APPARENT LIABILITY AND FORFEITURE AND ORDER, EB-IHD-14-00017650 (April 7, 2016) ("NAL").

⁸ See NAL, para. 2.

⁹ NAL, para. 96.

As a result, the Commission believes Total Call neglected to meet its commitments which served as a basis for ETC designation in Nebraska. Total Call's failure to adhere to its own Compliance Plan calls into question the entire basis upon which the Commission designated Total Call and found it to be in the public interest.

The Commission issues this Show Cause proceeding to revisit the basis for its designation of Total Call as an ETC in light of (1) its inability to offer Lifeline benefits to consumers as promised, and (2) in light of the FCC's findings that Total Call apparently willfully and flagrantly defrauded the federal universal service fund out of millions of dollars and falsified hundreds of consumer documents. Accordingly, the Commission finds it appropriate to initiate a Show Cause proceeding requiring Total Call to appear before the Commission on **June 21, 2016**, at 1:30 p.m. CDT, and Show Cause why the Commission should not suspend its ETC designation.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Commission at (402) 471-0213 (TDD) or the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Total Call Mobile, Inc. be, and is hereby ordered, to show cause why the Commission should not suspend its Eligible Telecommunications Company designation.

IT IS FURTHER ORDERED that Total Call Mobile appear before the Commission on **June 21, 2016**, at 1:30 p.m. CDT, in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska for a hearing on this Show Cause Order.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 25th day
of May, 2016.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gerald W. Wap

Crystal Knoder

Frank E. Landis

//s//Frank E. Landis

//s//Tim Schram

Tim Schram

Chairman

ATTEST:

Jeffrey L. Puley

Executive Director