

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. C-4621/
on its own motion, seeking to) NUSF-89
conduct an inquiry into the)
operations of Telrite)
Communications d/b/a Life)
Wireless, an Eligible)
Telecommunications Provider for) ORDER INITIATING SHOW CAUSE
the limited purpose of) AND SETTING HEARING
participating in the Lifeline)
program within the state of)
Nebraska, for violations of)
Commission Rules and Regulations)
regarding Lifeline in Nebraska.) Entered: July 30, 2013

BY THE COMMISSION:

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

Pursuant to the Nebraska Telecommunications Universal Service Fund Act¹ ("NUSF Act"), the Nebraska Public Service Commission ("Commission") has the authority and power to "subject eligible telecommunications companies to service quality, customer service, and billing regulations."² Further the NUSF Act provides the Commission "shall have authority and power to issue orders carrying out its responsibilities and to review the compliance of any eligible telecommunications carrier receiving support for continued compliance with any such orders or regulations adopted pursuant to the act."³

The Commission has promulgated rules and regulations containing application and participation requirements for any carrier designated as an Eligible Telecommunications Carrier ("ETC") and participating in the Nebraska Telephone Assistance Program ("NTAP"), the name given to the low-income assistance program, in Nebraska.⁴ Prior to participation in NTAP, a carrier must first be designated as an ETC in Nebraska by the Commission.

On May 29, 2013, Telrite Corporation d/b/a Life Wireless, ("Life Wireless" or "Company"), was designated by the Commission as an ETC for the limited purpose of receiving federal and state universal service support for participating in the low income

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

² See Neb. Rev. Stat. § 86-324(2)(a) (Reissue of 2008).

³ See Neb. Rev. Stat. § 86-324(2)(b) (Reissue of 2008).

⁴ See 291 NAC 5 § 009 and 291 NAC 10 § 006.

programs of the Federal Universal Service Fund ("USF"), the Lifeline program, and NTAP on a wireless basis.⁵

At the hearing before the Commission for its ETC designation on May 7, 2013, Brian Lisle, President of Life Wireless, committed Life Wireless to comply with all Nebraska-specific requirements for ETCs and Nebraska ETCs, including, but not limited to, only using the approved NTAP enrollment form and reporting requirements. At the hearing, Mr. Lisle further committed Life Wireless to working with the NTAP Department concerning the NTAP database and procedures for operating in Nebraska.⁶ Mr. Lisle additionally affirmed he understood the Commission made all final determinations regarding eligibility of NTAP applicants, not the Company. He further committed Life Wireless to ensure such information was made clear to potential Life Wireless customers, clarifying to applicants that any determination made by Life Wireless regarding the eligibility of any applicant at events sponsored by the Company was temporary in nature and the final decision on eligibility was determined solely by the Commission.⁷

On or around July 12, 2013, the Commission began receiving customer complaints connected to a Life Wireless event in Nebraska. Specifically, the complaints focused on an event held by the Company in a temporary tent structure in Omaha, Nebraska, on or around July 12, 2013. The Commission over the next few days continued to receive significant consumer complaints and inquiries arising from the Omaha Life Wireless tent event. A disturbance arose at the event as large numbers of people were waiting in line for extended periods of time in over ninety (90) degree heat with no shelter or water. The local police were called to deal with the disturbance and the event was covered by a local news station on or around July 12, 2013.⁸

The NTAP Department of the Commission had not been previously notified that Life Wireless was initiating operations in Nebraska, nor had Life Wireless contacted the NTAP Department about the operation of the NTAP database as promised by the Company at the hearing. Investigation by Commission Staff of Life Wireless's website revealed the company was including erroneous information regarding NTAP in Nebraska, and linking to

⁵ See Application No. C-4571/NUSF-88, *In the Matter of the Application of Telrite Corporation d/b/a Life Wireless seeking designation as an Eligible Telecommunications Carrier in the State of Nebraska for the limited purpose of participating in the Lifeline program*. Granted. (May 29, 2013).

⁶ Application No. C-4571/NUSF-88, Hearing Transcript, 16:23 - 17:1.

⁷ Application No. C-4571/NUSF-88, Hearing Transcript, 22:1 - 23:9.

⁸ Channel Six News, "Free Phones Draw Crowd, Including Police" (WOWT July 12, 2013)(TV broad.)(available at <http://www.wowt.com/news/headlines/Free-Phones-Draws--A-Crowd-215277581.html>).

a Nebraska online application form that was not the Commission approved NTAP application form required by Commission rules and regulations.

Commission staff contacted President Brian Lisle of Life Wireless on July 15, 2013 regarding the customer complaints and reports regarding the Omaha tent event and the incorrect and erroneous Nebraska information included on the company's website. During the conference call with Commission staff on July 15, 2013 and subsequent communications the same day, Mr. Lisle informed staff that Life Wireless had contracted with a third party to oversee and administer the Omaha event in question, but had made no contact with the NTAP Department prior to the first Nebraska event by Life Wireless in Nebraska. Mr. Lisle further admitted that Life Wireless had failed to properly prepare for Nebraska operations and failed to ensure compliance with Nebraska rules and regulations in regards to the application form and information disseminated to customers by representatives at the Omaha event and in informational flyers distributed at the event.

Copies of the flyer distributed at the Omaha tent event were provided to the Commission by Life Wireless on or around July 20, 2013. In the flyer, information that the final determination of eligibility of Lifeline applicants was the sole purview of the Nebraska Commission was omitted. It was unclear that any determination of eligibility made by the Company at the event was temporary in nature only and subject to final determination by the Commission.

On or around July 15, 2013, Life Wireless voluntarily ceased operations in Nebraska pending the outcome of the Commission investigation into its Nebraska operations.

Accordingly, the Commission finds it appropriate to initiate a Show Cause proceeding requiring Telrite Communications d/b/a Life Wireless to appear before the Commission on **August 27, 2013** at 1:30 p.m. CDT, and show cause why the Commission should not revoke Life Wireless's Eligible Telecommunications Company designation for participation in Lifeline and why the Commission should not impose administrative penalties against it pursuant to *Neb. Rev. Stat. § 75-156* (Reissue of 2009) for violation of Commission rules and regulations regarding NTAP, and Commission Orders.

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 Telrite Communications d/b/a Life Wireless, be and is hereby ordered, to show cause why the Commission should not revoke Life Wireless's Eligible Telecommunications Company designation for participation in Lifeline and why the Commission should not impose administrative penalties against it pursuant to *Neb. Rev. Stat. § 75-156* (Reissue of 2009) for violation of Commission rules and regulations regarding NTAP, and Commission Orders.

IT IS FURTHER ORDERED that Telrite Communications d/b/a Life Wireless appear before the Commission on **August 27, 2013** 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.

MADE AND ENTERED at Lincoln, Nebraska, this 30th day of July, 2013.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director