

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition of Q LINK WIRELESS)
LLC)
)
) Docket No. 12-2549-01
for Designation as an Eligible Telecommunications)
Carrier in the State of Utah)
)

STIPULATION AND SETTLEMENT AGREEMENT

Q LINK WIRELESS LLC (“Q Link”), the Division of Public Utilities (“DPU”), and the Office of Consumer Services (“OCS”) (collectively the "Stipulating Parties" or the “Parties”), through their undersigned representatives, enter into this Stipulation and Settlement Agreement ("Stipulation") regarding the Petition filed by Q Link in the instant docket. The Parties submit this Stipulation for approval by the Public Service Commission of Utah (the “Commission” or the “PSC”) pursuant the Commission’s Rules of Practice and Procedure, R746-100-10.

PRELIMINARY STATEMENT

1. On May 8, 1997, the Federal Communications Commission ("FCC") issued its Universal Service Report and Order, 12 FCC Rcd 8776 (1997) ("Universal Service Order") implementing the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Federal Act"). The FCC provided further guidance on Eligible Telecommunications Carrier (“ETC”) designation in its Lifeline and Link Up Reform Order released February 6, 2012, Federal-State Joint Board on Universal Service, WC Docket No. 11-42, WC Docket No. 03-109,

CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11.¹

2. The Universal Service Order provides that only ETCs designated by a state public utilities commission (“State Commission”) shall receive federal universal service support. Under 47 U.S.C. § 214(e), a State Commission shall, upon its own motion or upon request, designate a common carrier that meets the requirements set forth by the FCC as an ETC for a service area designated by the State Commission. The FCC defines a service area as a geographic area established by a State Commission for the purpose of determining universal service obligations and support mechanisms.

3. To be designated as a federal ETC under the Federal Act, a carrier must: (1) be a common carrier; (2) demonstrate an intent and ability to provision the supported services set forth in 47 C.F.R. § 54.101(a) throughout its designated service areas; and (3) demonstrate an intent and ability to advertise its universal service offerings and the charges therefore, using media of general distribution. 47 U.S.C. § 214(e); Universal Service Order, 12 FCC Rcd at 8791.

4. The FCC's supported services set forth in 47 C.F.R. § 54.101(a) are:
- a. voice grade access to the public switched telephone network or its functional equivalent;
 - b. minutes of use for local service provided at no additional charge to end users;

¹ See *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*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“Lifeline and Link Up Reform Order”).

- c. access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and
- d. toll limitation services to qualifying low-income consumers.

5. In areas served by a rural telephone company, 47 U.S.C. § 214(e)(2) further requires the Commission to determine that the designation of an additional ETC is in the public interest.

6. On January 25, 2012, Q Link filed a Petition seeking Designation as an ETC in the State of Utah, Docket Number 12-2549-01. Q Link seeks designation throughout Sprint's coverage area, as identified by wire centers in Exhibit 6 to its Petition.

7. Q Link, the DPU, and the OCS engaged in settlement discussions in an attempt to resolve their differences regarding issues raised by Q Link's Petition. Utah Rural Telecom Association (URTA), and Salt Lake Community Action Program (SLCAP) were invited to participate.

8. The Parties have now reached agreement on the issues raised in this docket, as set forth herein. The Parties agree this Stipulation should have no legal effect outside of the instant docket.

AGREEMENT

WHEREFORE, based on their review of all discovery, testimony and exhibits submitted and upon their settlement discussions, the Parties hereby stipulate and agree as follows:

- 1. Q Link is a wireless reseller of Sprint Nextel's (Sprint) network.

2. Q Link seeks ETC designation for the limited purpose of providing universal service low-income Lifeline service in Utah. Q Link will not be seeking universal service high-cost support in its service area, nor will Q Link seek to provide universal service low-income Link Up service.

3. Q Link's Lifeline program furthers the statutory goal that basic service be available and affordable to all citizens of the state of Utah.

4. Q Link's Lifeline product offering will offer an additional choice of providers offering service for low-income consumers, which represents a benefit for those consumers and is in the public interest.

5. Q Link is a commercial mobile radio service ("CMRS") provider, and a common carrier as defined by 47 U.S.C. § 332(c)(1)(A).

6. Q Link provides each of the supported services set forth in 47 C.F.R. § 54.101(a) and it has shown an intent and ability to offer those services once designated throughout its requested service areas.²

7. Q Link submitted its original Compliance Plan to the FCC on February 10, 2012 and its First, Second, and Third Amended Compliance Plans on March 16, 2012, April 12, 2012, and July 30, 2012, respectively. Q Link's Compliance Plan outlines the measures it will take to implement the conditions imposed by the FCC.³ The FCC approved Q Link's Compliance Plan, as amended, on August 8, 2012.

² With respect to toll limitation, in its Lifeline and Link Up Reform Order, the FCC stated that toll limitation would no longer be deemed a supported service in the case of ETCs. See Lifeline and Link Up Reform Order at ¶¶ 49 and 367. Nonetheless, Q Link's offerings inherently allow Lifeline subscribers to control their usage because of the prepaid nature of Q Link's Lifeline plans. Q Link's service is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same. The nature of Q Link's service and plans act as a toll limitation. Q Link will not seek reimbursement for toll limitation service.

³ See Lifeline and Link Up Reform Order.

8. Q Link will make available Lifeline service to qualifying low-income consumers. Q Link will not offer Link Up to qualifying low-income consumers.

9. Q Link shall make available three (3) different Lifeline plans, equivalent to 68, 125, or 250 free minutes. Q Link agrees that it will seek the \$9.25 federal reimbursement from the Universal Service Administrative Company (“USAC”).

10. The Parties stipulate and agree that designating Q Link as an ETC in the wire centers set forth in Exhibit 6 to its Petition serves the public interest, convenience and necessity, as defined in 47 U.S.C. § 214(e)(2).

11. The Parties stipulate and agree that Q Link shall provide its ETC Lifeline universal service offerings in Utah pursuant to this Stipulation (including attachments). The Parties recommend that Q Link’s provision of its universal service offering as an ETC be governed by the following additional requirements:

- A. Q Link will use a Utah-specific fact sheet that provides customers concise and complete information about the services they will receive. Such fact sheet is attached hereto as Attachment 1. Q Link agrees to promptly update the fact sheet anytime it changes its Utah Lifeline program offerings.
- B. Q Link is not currently seeking any Utah USF funding.
- C. If Q Link seeks Utah USF funding in the future, Q Link will file a separate application requesting such state support.
- D. Q Link will comply with all state service quality and consumer protection requirements.

- E. Q Link acknowledges that approval of its Petition will be conditioned upon the verified payment of all applicable state and local regulatory fees, including, but not limited to, universal service fees, emergency services, and relay services
- F. Q Link agrees to adopt any changes to the certification and verification process developed within Docket No. 10-2528-01.
- G. Q Link meets the requirements for federal ETC designation.
- H. Upon implementing any changes to its Lifeline offerings, Q Link will timely file a notice with the DPU and OCS describing the changed plans.

GENERAL PROVISIONS

1. The Parties stipulate to the admission into evidence in this docket of Q Link's Petition and pre-filed Testimony and exhibits. This stipulation to the admission of the Testimony does not represent an agreement by the Parties as to any positions taken in such Testimony.

2. Not all Parties agree that each aspect of this Stipulation is warranted or supportable in isolation. Utah Code Ann. § 54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. While the Parties are not able to agree that each specific component of this Stipulation is just and reasonable in isolation, all of the Parties agree that this Stipulation as a whole is just and reasonable in result and in the public interest.

3. All negotiations related to this Stipulation are confidential, and no Party shall be bound by any position asserted in negotiations. Except as expressly provided in this Stipulation, and in accordance with Utah Admin. Code R746-100-10.F.5, neither the

execution of this Stipulation nor the order adopting it shall be deemed to constitute an admission or acknowledgment by any Party of the validity or invalidity of any principle; nor shall they be construed to constitute the basis of an estoppel or waiver by any Party; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any Party except in a proceeding to enforce this Stipulation.

4. The Parties agree that no part of this Stipulation or the formulae and methodologies used in developing the same or a Commission order approving the same shall in any manner be argued or considered as precedential in any future case except with regard to issues expressly called-out and resolved by this Stipulation. This Stipulation does not resolve and does not provide any inferences regarding, and the Parties are free to take any position with respect to any issues not specifically called-out and settled herein.

5. The Parties request that the Commission hold a hearing on this Stipulation. Q Link, the DPU, and the OCS shall, and other Parties may make one or more witnesses available to explain and offer further support for this Stipulation. The Parties shall support the Commission's approval of this Stipulation. As applied to the DPU and the OCS, the explanation and support shall be consistent with their statutory authority and responsibility.

6. The Parties agree that if any person challenges the approval of this Stipulation or requests rehearing or reconsideration of any order of the Commission approving this Stipulation, each Party will use its best efforts to support the terms and conditions of this Stipulation. As applied to the DPU and the OCS, the phrase "use its best efforts" means that they shall do so in a manner consistent with their statutory authority and responsibility. In the event any person seeks judicial review of a Commission order approving this Stipulation, no Party shall take a position in that judicial review proceeding in opposition to the Stipulation.

7. Except with regard to the obligations of the Parties under the four immediately preceding paragraphs of this Stipulation, this Stipulation shall not be final and binding on the Parties until it has been approved without material change or condition by the Commission.

8. This Stipulation is an integrated whole, and any Party may withdraw from it if it is not approved without material change or condition by the Commission or if the Commission's approval is rejected or materially conditioned by a reviewing court. If the Commission rejects any part of this Stipulation or imposes any material change or condition on approval of this Stipulation or if the Commission's approval of this Stipulation is rejected or materially conditioned by a reviewing court, the Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, any Party retains the right to seek additional procedures before the Commission, including presentation of testimony and cross-examination of witnesses, with respect to issues resolved by the Stipulation, and no party shall be bound or prejudiced by the terms and conditions of the Stipulation.

9. This Stipulation may be executed by individual Parties through two or more separate, conformed copies, the aggregate of which will be considered as an integrated instrument.

WHEREFORE, the Parties respectfully submit this Stipulation and Settlement Agreement for approval by the Commission and request that the Commission grant such approval.

Dated this ___ day of _____, 2012.

FOR Q LINK WIRELESS LLC:

Lance J.M. Steinhart
Lance J.M. Steinhart, P.C.
Attorneys at Law
1725 Windward Concourse, Suite 150
Alpharetta, Georgia 30005
(770) 232-9200 (Phone)
(770) 232-9208 (Fax)
Email: lsteinhart@telecomcounsel.com

Counsel for Q LINK WIRELESS LLC

**FOR THE UTAH DEPARTMENT OF
PUBLIC UTILITIES:**

Chris Parker
Director
Division of Public Utilities
160 E 300 S, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-6751

**FOR THE UTAH OFFICE OF
CONSUMER SERVICES:**

MICHELE BECK
Director
Office of Consumer Services
160 E 300 S, 2nd Floor
Salt Lake City, UT 84114-6782

ATTACHMENT 1

Utah-specific Fact Sheet

IMPORTANT INFORMATION ABOUT YOUR Q LINK WIRELESS LIFELINE SERVICE

Q LINK WIRELESS Lifeline Service is brought to you by Q LINK WIRELESS LLC and includes the provision of a free E911 compliant wireless handset. This government sponsored Lifeline telephone service is subject to continuing eligibility and annual recertification. Only one Lifeline subsidy per household is allowed; your participation in this program requires that you do not receive Lifeline subsidy on any other phone, either wireless or wireline. If you no longer receive the low-income assistance or your income exceeds the qualifying amount, you must notify Q LINK WIRELESS. As a recipient of Lifeline service you may not give away or sell this phone.

- Your enrollment in the program will be for 12 months. (Unless your eligibility status changes, you select a different carrier, or there is no activity on your phone for 60 consecutive days.)
- You will receive a minimum of either 68, 125, or 250 free minutes each month, depending on the Plan Option you choose. This offer may increase but will not decrease. Q Link will inform you of any changes. (You must follow the procedures described in the welcome kit to receive free minutes and elect a Plan Option.)
- If you choose Plan Option 1 or 2, unused free minutes will carry over to the following month.*
- Minutes will be charged for both outgoing and incoming calls.
 - Note: Calls to directory assistance and time you are on hold will also count as minutes used.
 - Emergency calls to 911 will not count against your minutes
 - Calls to Q Link customer service will not count against your minutes.
 - Partial minute usage is rounded up.
 - Text messages are charged at one minute per incoming or outgoing text.**
- To contact Q Link customer service, please dial 611 from your Q Link handset or dial Q Link's toll-free number 1-855-QLINK43 (1-855-754-6543). You can also contact Q Link customer service representatives via the "Contact Us" page on Q Link's website www.qlinkwireless.com.
- Emergency calls to 911 CAN be made even if you have NO remaining minutes.
- Additional minutes can be added by calling Q Link customer service, or via Q Link's website.
 - Purchase 50 minutes for \$9.99
 - Purchase 120 minutes for \$19.99
 - Purchase 200 minutes for \$29.99
 - Purchase 450 minutes for \$59.99
- At the end of 12 months Q Link will contact you to verify that you are still eligible for Lifeline support to continue to receive free minutes monthly.
- Limited access to the internet is available. You are advised to carefully review this feature in your Q Link Wireless Services Guide and Terms and Conditions to understand how minutes will be deducted with use.
- If you have purchased additional airtime and have remaining minutes and days of service at the end of your Lifeline eligibility, you will be subject to the terms and conditions of Q Link's retail wireless services.

YOU ARE ENCOURAGED TO READ YOUR WELCOME KIT CAREFULLY FOR COMPLETE DETAILS REGARDING YOUR Q LINK WIRELESS LIFELINE SERVICE.

* If you elect the 250 Monthly Minute Plan (Plan Option 3), then unused minutes do not carry over.

** If you elect the 68 Monthly Minute Plan (Plan Option 1), then text messages are charged at one minute per three (3) incoming or outgoing texts.