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Attorney for Cricket Communications, Inc.

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

IN THE MATTER OF THE APPLICATION ) Docket No. 12-\_\_\_\_\_  
OF CRICKET COMMUNICATIONS, INC. )  
FOR DESIGNATION AS AN ELIGIBLE )  
TELECOMMUNICATIONS CARRIER IN )  
THE STATE OF UTAH )

Cricket Communications, Inc. (“Cricket”) respectfully submits this Application for Designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(2) of the federal Communications Act of 1934, as amended (the “Act”),<sup>1</sup> Section 54.201 et seq. of the rules of the Federal Communications Commission (“FCC”),<sup>2</sup> and the rules and regulations of the Public Service Commission of Utah (“Commission”). Cricket respectfully requests that the Commission grant this Application expeditiously, so that low-income customers in Utah can benefit from the variety of high-quality calling plans provided by Cricket without any unnecessary delay.

**I. BACKGROUND**

*Cricket.* Cricket provides digital wireless services on a common carrier basis, offering customers unlimited calling at flat rates without requiring any fixed-term contract, credit check, or termination fees. Directly and through its affiliates, Cricket currently serves nearly six

<sup>1</sup> 47 U.S.C. § 214(e)(2).

<sup>2</sup> 47 C.F.R. § 54.201 et seq. In February 2012, the FCC amended its rules applicable to the Lifeline program. This application is consistent with the ETC application requirements that will take effect later this year. See *Lifeline and Link Up Reform and Modernization*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline Reform Order*”).

million customers. It provides facilities-based coverage in 34 states and the District of Columbia. Cricket is a Delaware corporation authorized to do business in Utah, and throughout the requested ETC area, pursuant to a Commercial Mobile Radio Service (“CMRS”) licenses granted by the FCC.<sup>3</sup>

***Designation of Eligible Telecommunications Carriers.*** Sections 214(e) and 254 of the Act expressly authorize the Commission to designate Cricket as an ETC.<sup>4</sup> More specifically, Section 214(e)(2) of the Act provides that, upon request and consistent with the public interest, convenience, and necessity, the Commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an ETC, provided the requesting carrier: (i) offers services that are supported by federal universal service support mechanisms; and (ii) advertises the availability of such services.<sup>5</sup> The FCC’s rules, as well as the Commission’s Reports and Orders, impose additional requirements on a common carrier seeking designation as an ETC. As demonstrated below, Cricket satisfies each of these requirements.

***Scope of Cricket Designation Request.*** Cricket seeks ETC designation only for the purpose of receiving Lifeline support from the federal universal service fund (“USF”) for the benefit of low-income customers.

Exhibit A contains a list of the wire centers within Cricket’s current coverage area in Utah. For the reasons set forth below, designating Cricket as an ETC throughout the requested service areas would serve the public interest, convenience and necessity. Exhibit B contains two

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<sup>3</sup> Utah Licenses: WPQW519, WPQW516, WQGD769, WQGD766

<sup>4</sup> 47 U.S.C. §§ 214(e), 254.

<sup>5</sup> 47 U.S.C. § 214(e)(2). *See also* 47 C.F.R. § 54.201(d).

Orders from the FCC relating to Cricket's Petition for Forbearance. The FCC Order issued February 7, 2012 states:

Cricket is eligible to seek ETC designation without conforming its service area to that of the underlying rural telephone company for Lifeline-only support provided that it fulfills the commitments in its Compliance Plan in each state where it is designated to provide Lifeline service.<sup>6</sup>

The FCC Orders in Cricket's Petition for Forbearance address the Commission's concerns discussed in the Order on Reconsideration issued in the Virgin Mobile USA, L.P. proceeding, regarding service areas served by a rural telephone company.<sup>7</sup>

## **II. CRICKET SATISFIES THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC IN UTAH**

Cricket satisfies each of the statutory and regulatory prerequisites set forth in the Act, the FCC's rules and the Commission's Reports and Orders:<sup>8</sup>

### **A. Cricket Offers Voice Telephony Services Supported by the Federal Low-Income Universal Service Program [47 C.F.R. § 54.201(d)]**

Cricket provides voice telephony services supported by federal universal service support mechanisms, as set forth in 47 C.F.R. § 54.101, and will offer these supported services throughout the areas in which it is designated as an ETC. Cricket will provide these supported services using a combination of its own facilities. Cricket primarily will use its own network infrastructure, which includes the same antennae, cell-sites, towers, trunking, mobile switching

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<sup>6</sup> See *Cricket Communications, Inc. Petition for Forbearance*, WC Docket No. 09-197, Order, 27 FCC Rcd 1374 (2012) and *See also Cricket Communications, Inc. Petition for Forbearance*, WC Docket No. 09-197, Order, 26 FCC Rcd 13723 (2011).

<sup>7</sup> See *In the Matter of Virgin Mobile USA, L.P., Petition for Limited Designation as an Eligible Telecommunications Carrier*, Public Service Commission of Utah, Order on Reconsideration, Docket No. 10-2521-01 (July 13, 2011).

<sup>8</sup> See *Federal-State Joint Board on Universal Service*, Report and Order, 20 FCC Rcd 6371 (2005). See also *Lifeline and Link Up Reform and Modernization*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012). *Id. Virgin Mobile*, Docket No. 10-2521-01.

and interconnection facilities used to serve its existing customers. Cricket's voice telephony services include:

***Voice Grade Access.*** "Voice grade access" permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal that there is an incoming call. Through its interconnection agreements with local exchange carriers ("LECs") in Utah, Cricket's customers will be able to place and receive calls on the public switched telephone network with a minimum bandwidth of 300 to 3000 Hertz.

***Local Usage.*** "Local usage" is an amount of usage of exchange service provided without an additional charge to end users. The FCC has specified that a local usage plan is acceptable if it is "comparable to the one offered by the incumbent LEC in the service areas for which the applicant seeks designation."<sup>9</sup> This comparability analysis must proceed on a case-by-case basis, and take account of value-added capabilities and services incorporated into a plan.<sup>10</sup> Cricket's service plans, summarized in Exhibit C, all offer unlimited local and toll calling at a low flat rate, and thus are at least comparable in value to those offered by ILECs operating in the requested ETC service area. Cricket's plans offer consumers numerous benefits, including larger "local" calling areas, mobility, and unlimited local and long-distance usage. In addition, these plans incorporate value-added features, such as caller ID; unlimited domestic text and picture messaging; unlimited text messaging to Mexico; premium extended coverage providing unlimited service without additional roaming fees in over 4,600 domestic cities and towns; and call waiting, three-way calling, and voicemail, among other services.

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<sup>9</sup> See *Federal-State Joint Board on Universal Service*, Report and Order, 20 FCC Rcd 6371, at ¶ 32 (2005) ("2005 ETC Order").

<sup>10</sup> *Id.*

***Access to Emergency Services.*** “Access to emergency services” includes access to services, such as 911 and enhanced 911 (“E-911”), provided by local governments or other public safety organizations. Cricket currently provides its voice customers in Utah with such access, is capable of delivering automatic numbering information (“ANI”) and automatic location information (“ALI”) over its existing network, and otherwise satisfies applicable Utah and federal E-911 requirements. Further, Cricket pays all applicable E-911 fees in a timely manner. Cricket will continue to work with local public safety answering points (“PSAPs”) within its ETC service areas to make 911 and E-911 service available to its customers.

***Toll Limitation.*** “Toll limitation” includes the offering of either “toll control” or “toll blocking” to qualifying low-income customers, as a means of limiting or blocking the completion of outgoing toll calls. Section 54.401(a)(2) of the FCC’s recently adopted rules provides that toll limitation service is not necessary for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service.<sup>11</sup> Cricket’s calling plans do not distinguish between local and toll calls at the point of dialing, such that Cricket cannot offer toll limitation without blocking all service to a customer. However, if for any reason Cricket changes the structure of its service plans to distinguish between local and toll calls, Cricket will meet the toll limitation requirement by providing toll blocking.

**B. Cricket Will Advertise the Availability of and Charges for its Universal Service Qualifying Offerings [47 C.F.R. § 54.201(d)(2)] and Verify Eligibility**

Cricket will advertise the availability of the supported services detailed above, and the corresponding rates and charges, in a manner designed to inform the general public within its designated ETC service areas. This advertising will occur through a combination of media channels, such as radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet. Cricket will offer Lifeline service only under its

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<sup>11</sup> See *Lifeline Reform Order* at ¶ 49.

own brand name, and not through any affiliates. To the extent that Lifeline service is provided by affiliates in the future, Cricket will disclose such information pursuant to the reporting requirements set forth in 47 C.F.R. § 54.422. Cricket will comply with the relevant laws, rules, and Commission orders governing eligibility verification, as they presently exist and as amended by Commission decision in Docket No. 10-2528-01, including bearing the costs of verification determined there.

**C. Cricket Will Satisfy its Additional Obligations as an ETC**

In addition to those requirements set forth in Section 54.201 of the FCC's rules, Cricket will satisfy other ETC requirements adopted by this Commission and the FCC. In particular:

*Commitment to Comply With Applicable Service Requirements [47 C.F.R. § 54.202(a)(1)(i)].* Cricket certifies that it will provide voice telephony service using its standard customer equipment (handsets/wireless devices). This service will meet the requirements of Section 54.101 discussed in Section II.A, including voice grade access, local service, and access to emergency services. Because Cricket seeks only low-income support, as opposed to high-cost funding to support the construction of network facilities, it is not submitting a network improvement plan under 47 C.F.R. § 54.202(a)(1)(ii).<sup>12</sup>

*Ability to Remain Functional in an Emergency [47 C.F.R. § 54.202(a)(2)].* Cricket is committed to providing and maintaining essential telecommunications services in times of emergency. In particular, Cricket maintains a reasonable amount of back-up power to ensure the functionality of its service without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. More specifically, all mobile switching centers and cell sites have battery backup

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<sup>12</sup> The FCC has made clear that this requirement does not apply to carriers seeking designation as a Lifeline-only ETC. See *Lifeline Reform Order* at ¶ 386.

power, each switching center has a dedicated diesel generator, and there are several cell site generators in the market area. In instances of power outages, priority is set based upon traffic, cell site location and time of day. In certain parts of the service area, a cell on wheels (COW) can be deployed. In case of a total switch outage, a mobile command center may be established by each switch vendor.

***Satisfaction of Applicable Consumer Protection and Service Quality Standards [47 C.F.R. § 54.202(a)(3)].*** Cricket will comply with all applicable state and federal consumer protection and service quality standards. Further, Cricket will abide by CTIA’s Consumer Code for Wireless Service (“CTIA Code”). Cricket has already adopted the CTIA Code and is committed to compliance with the CTIA Code throughout its service areas, including in those areas where it is seeking designation as an ETC. In particular, Cricket will use its best efforts to resolve complaints received by the Commission, and designates the following contact person to work with Commission staff to resolve any complaints or other compliance matters:

Carrie Comeford  
Senior Manager Customer Care  
Cricket Communications, Inc.  
6380 South Fiddlers Green Circle  
Greenwood Village, CO 80111  
(303)734-7603  
[ccomeford@cricketcommunications.com](mailto:ccomeford@cricketcommunications.com)  
or  
[governmentinquiry@cricketcommunications.com](mailto:governmentinquiry@cricketcommunications.com)

Cricket will comply with all applicable laws, rules and regulations relating to consumer/billing requirements as set forth in the Utah Consumer Sales Practices Act.<sup>13</sup>

***Financial and Technical Capability to Provide Lifeline Service [47 C.F.R. § 54.202(a)(4)].*** As a leading wireless carrier with nearly six million customers and a market capitalization of more than \$800 million, Cricket has both the financial and technical capabilities

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<sup>13</sup> Utah Code Ann. § 13-10b-401 et seq.

to provide Lifeline service. Cricket operates as an ETC in nine states, with an additional 14 state ETC applications pending. The company will continue to rely on its successful business model and service offerings to sustain and grow its network and operations, independent of USF disbursements that provide discounts for qualifying Lifeline subscribers.

***Service Plan Terms and Conditions [47 C.F.R. §§ 54.202(a)(5), 54.401(d)].***

Cricket offers several all-inclusive wireless service plans to customers, starting at \$35 per month. All currently available rate plans include unlimited local and long-distance calling with nationwide coverage. Lifeline subscribers may choose any standard Cricket service plan and apply the available discount. Consumers can access plan information via the company's website at <http://www.leapwireless.com/brands/prepaid-wireless-phone-plans>. Additional information regarding service terms and conditions is provided in Section III and Exhibit C.

***Service Initiation Deposits [47 C.F.R. § 54.401(c)].*** Cricket does not collect service deposits for its plans, and will not do so for Lifeline accounts.

***Number-Portability Charges [47 C.F.R. § 54.401(e)].*** Cricket does not charge a monthly number-portability fee, and will not do so for Lifeline accounts.

***Lifeline Certification and Verification [47 C.F.R. § 54.410].*** Cricket will certify and verify consumer eligibility to participate in the Lifeline programs in accordance with the rules of this Commission and the FCC.

***Regulatory Fees.*** Cricket pays all applicable federal, state, and local regulatory fees in a timely manner, including, but not limited to, universal service fees, “the funding of emergency services addressed in Utah Code Ann. §§ 69-2-5, 69-2-5.5 and 69-2-5.6 (911 emergency telecommunication services, the Poison Control Center, and statewide unified E-911 emergency service)”.<sup>14</sup>

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<sup>14</sup> *Id.* Order on Reconsideration, Virgin Mobile, page 2.



### **III. DESIGNATING CRICKET AS A COMPETITIVE ETC WILL SERVE THE PUBLIC INTEREST**

Designating Cricket as an ETC will serve the public interest generally, and the needs of low-income customers in Utah in particular. Cricket has specifically tailored its wireless service plans to share the benefits of wireless telecommunications with underserved customers who have been left behind by other providers. Cricket offers unlimited voice service at affordable rates starting as low as \$35 per month and unlimited broadband starting at \$45 per month, without the typical strings attached (such as credit checks, long-term commitments, and early termination fees) that otherwise prevent many economically disadvantaged customers from obtaining wireless services. With this foundation of simplicity and affordability as its business model, Cricket and its joint venture partners have built a network covering approximately 95 million individuals in 34 states and the District of Columbia, and are steadily expanding into new communities where existing providers may not be meeting consumers' telecommunications needs.

Cricket fulfills a critical role in the marketplace by ensuring that many Americans who cannot qualify for, or afford, the services provided by other wireless providers can still enjoy the benefits of wireless telecommunications, including wireless broadband. Cricket's flat-rate, unlimited service model is ideal for many consumers on a limited budget; other carriers often impose hefty overage charges if consumers exceed their usage limit. Many consumers cannot even qualify for service from other providers because of creditworthiness concerns or the inability to commit to a long-term contract.

As a result, Cricket's customer base of approximately 5.9 million customers is quite unlike those of other wireless providers. Notably, approximately 80 percent of Cricket's customers have annual household incomes of less than \$50,000 and 55 percent have annual household incomes of less than \$30,000. In contrast, just 40 percent of other wireless carriers'

customers have annual household incomes of less than \$50,000. The usage patterns of Cricket's customers also are distinct. Ninety percent of Cricket's subscribers use the service for their primary phone (compared to an industry average of 50 percent), and 70 percent do not have a traditional landline phone service at home (compared to an industry average of 25 percent). Cricket's customers also use an average of 1500 minutes per month — approximately twice as many as the industry average.

These figures reveal that Cricket reaches market segments many other carriers have failed to prioritize, and its customers look to Cricket for all of their telecommunications needs, including an entrance into the online world. In fact, nearly 50 percent of customers subscribing to Cricket's flat-rate wireless broadband service have never had Internet access at home—not even dial-up. Designating Cricket as an ETC will improve its ability to serve these customers, and thus will serve the public interest.

In addition to the public interest benefits listed above, the following list outlines the benefits of Cricket's wireless services:

- Cricket satisfies all of the statutory requirements for ETC designation including providing specified service functionalities, and required advertising using several types of media including a combination of media channels, such as radio, newspaper, magazines and other print advertisements, outdoor advertising, direct marketing, and the internet.
- Cricket will increase competition in the Lifeline market and will increase pressure on carriers to provide service offerings tailored to the needs of consumers.
- Cricket will provide increased customer choice and improved customer access.

- Cricket will provide usage of exchange services without an additional charge to end users.
- Cricket will offer larger “local” calling areas, mobility, and unlimited local and long distance usage.
- Cricket’s Lifeline service will include a variety of technological features at no additional charge including caller ID, voice mail, call waiting, three-way calling and E911 service.
- Cricket’s service includes unlimited domestic text and picture messaging.
- Cricket will offer unlimited text messaging to Mexico.
- Cricket’s service includes premium extended coverage providing unlimited service without additional roaming fees in over 4,600 domestic cities and towns.
- Cricket’s service has no activation or connection charges for the lifeline service.
- Cricket will utilize existing network infrastructure.
- Cricket is committed to pay all applicable taxes and public interest charges.
- Cricket does not seek state USF support.
- Cricket will work cooperatively with the Commission to establish new verification processes and to fully comply with Utah law.
- Cricket has already been granted ETC status in 9 states and has never been denied.

#### IV. CONCLUSION

Wherefore, based on the foregoing Application, Cricket respectfully requests that the Commission designate Cricket as an ETC in the State of Utah.

Respectfully submitted this 8<sup>th</sup> day of May, 2012.

CRICKET COMMUNICATIONS, INC.

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Attorney for Cricket Communications, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of May, 2012, a true and correct copy of Cricket Communications, Inc.'s Application for Designation as an Eligible Telecommunications Carrier in Utah was sent via e-mail transmission to the following persons:

Patricia E. Schmid  
Assistant Attorney General  
500 Heber M. Wells Building  
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Salt Lake City, UT 84111  
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Attorney for Cricket Communications, Inc.

**EXHIBIT A: WIRE CENTERS WITHIN CRICKET'S CURRENT COVERAGE AREA IN UTAH**

**EXHIBIT B: FCC ORDERS – CRICKET COMMUNICATIONS, INC.  
WC DOCKET NO. 09-197  
SEPTEMBER 16, 2011  
FEBRUARY 7, 2012**

**EXHIBIT C: SUMMARY OF CRICKET SERVICE PLANS**

	Cricket Wireless						
	\$35	\$45	\$55			\$65	
	Basic	Value	Mexico <sup>†</sup>	Muve Feature	Smart	Global <sup>†</sup>	Muve Smart
<b>Rate Plan Includes</b>							
<b>Calling</b>							
unlimited nationwide local calling	x	x	x	x	x	x	x
unlimited nationwide US long distance*	x	x	x	x	x	x	x
caller ID	x	x	x	x	x	x	x
voicemail	x	x	x	x	x	x	x
call waiting & 3-way calling	\$5	x	x	x	x	x	x
call forwarding	N/A	x	x	x	x	x	x
<b>Messaging</b>							
unlimited US text	x	x	x	x	x	x	x
unlimited US picture	-	x	x	x	x	x	x
unlimited US video	-	x	x	x	x	x	x
unlimited int'l text	-	x	x	x	x	x	x
unlimited int'l picture <sup>†</sup>	-	x	x	x	x	x	x
unlimited int'l video <sup>†</sup>	-	x	x	x	x	x	x
unlimited global messaging (includes all the above)	\$5	x	x	x	x	x	x
<b>More Features</b>							
mobile web	\$5	x	x	x	x	x	x
data backup & 411	\$5	x	x	x	x	x	x
Muve Music	N/A	N/A	N/A	x	N/A	N/A	x
Mexico landline (included minutes)	-	-	500	-	-	-	-
Mexico mobile (included minutes)	-	-	30	-	-	-	-
Mexico local number <sup>†</sup>	\$5	\$5	x	\$5	\$5	\$5	\$5
int'l landline (included minutes)	-	-	-	-	-	500	-
int'l mobile (included minutes)	-	-	-	-	-	30	-
global local number <sup>†</sup>	\$5	\$5	\$5	\$5	\$5	x	\$5
unlimited international long distance roaming (30 minutes)	\$10	\$10	\$10	\$10	\$10	\$10	\$10
Cricket navigator	\$5	\$5	\$5	\$5	\$5	\$5	\$5
handset protection	\$5	\$5	\$5	N/A	N/A	\$5	N/A
	\$5	\$5	\$5	\$5	\$5	\$5	\$5

\* Unlimited US long distance includes calling to all 50 states, Puerto Rico, and Canada

<sup>†</sup> Launches October 30, 2011