

**Before the
UTAH PUBLIC SERVICE COMMISSION**

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In the Matter of)	
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Telrite Corporation d/b/a Life Wireless)	Docket No. _____
)	
Petition for Limited Designation as an)	
Eligible Telecommunications Carrier)	
)	

**PETITION FOR LIMITED DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

David J. Shaw
Kirton McConkie, P.C.
518 West 800 North, Suite 204
Orem, Utah 84057

J. Andrew Gipson
Margarett A. Johnson
Jones, Walker, Waechter, Poitevent,
Carrere & Denègre L.L.P.
190 E. Capitol Street, Suite 800 (39201)
P. O. Box 427
Jackson, Mississippi 39205-0427

Brian Lisle, President
Telrite Corporation
1480 Terrell Mill Road, SE
Suite 104
Marietta, Georgia 30067

June 20, 2012

SUMMARY

Telrite Corporation d/b/a Life Wireless (“Telrite” or the “Company”), pursuant to the Federal Communications Act of 1934, as amended (the “Act”), 47 U.S.C. §214(e) and implementing rules of the Federal Communications Commission (“FCC”), requests that the Utah Public Service Commission designate Telrite as an Eligible Telecommunications Carrier (“ETC”) in portions of the State of Utah (the “Service Area”) for the purpose of receiving federal low-income universal service support for prepaid wireless services, specifically Lifeline. As discussed herein, Telrite meets all of the necessary requirements for ETC designation under the Act to offer services supported by the Lifeline program. Designation of the Company would promote the public interest because it would provide qualifying Utah customers with lower prices and higher quality wireless services. Many low-income customers in Utah have yet to benefit from the intensely competitive wireless market because of financial constraints, poor credit history or intermittent employment and many existing customers lose access to wireless services when their financial position deteriorates as a consequence of losing a job, a medical condition or any other adverse event—all unfortunately too common during a challenging economic period. Telrite’s prepaid service offerings are ideally suited to provide these customers with reliable and free wireless services. As an ETC, Telrite would be able to provide affordable services to these consumers—many of whom are among the intended beneficiaries of USF support.

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I. INTRODUCTION

Telrite Corporation d/b/a Life Wireless (“Telrite” or the “Company”), by its undersigned counsel, hereby petitions the Utah Public Service Commission (“Commission”) for designation as an eligible telecommunications carrier (“ETC”) in the State of Utah pursuant to the Federal Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 214(e) and implementing rules of the Federal Communications Commission (“FCC”). Telrite seeks ETC designation in Utah for the purpose of receiving federal low-income universal service support for prepaid wireless services, specifically Lifeline. The instant request does not seek ETC designation to offer services supported by the high-cost program. As more fully described below, Telrite satisfies the requirements for designation as an ETC in the State of Utah. Rapid grant of Telrite’s request, moreover, would advance the public interest because it would enable the Company to commence much needed Lifeline services to lower-income Utah residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve the instant ETC designation petition.

II. GENERAL INFORMATION

A. Company Overview

Telrite Corporation, d/b/a Life Wireless, is a Georgia corporation with its principal offices located at 4113 Monticello Street, Covington, Georgia 30014. Telrite is authorized to do transact business in the State of Utah. Copies of Telrite's Articles of Incorporation and Utah Certificate of Good Standing are attached herein as Exhibit "A".

B. Contact Information Regarding Petition

Correspondence or communications pertaining to this Application should be directed to Telrite's attorneys of record:

David J. Shaw
Alexander N. Pearson
Kirtan McConkie, P.C.
518 West 800 North, Suite 204
Orem, Utah 84057
Telephone: (801) 321-4864
Facsimile: (801) 212-2006
Email: dshaw@kmclaw.com
apearson@kmclaw.com
and

J. Andrew Gipson
Margarett A. Johnson
Jones, Walker, Waechter, Poitevent,
Carrere & Denègre L.L.P.
190 E. Capitol Street, Suite 800 (39201)
P. O. Box 427
Jackson, Mississippi 39205-0427
Telephone: (601) 949-4681
Facsimile: (601) 949-4804
Email: agipson@joneswalker.com
mjohnson@joneswalker.com

C. Contact Information Regarding Operations

Questions concerning the ongoing operations of Telrite following ETC designation should be directed to the above referenced counsel and to:

Brian Lisle, President
Telrite Corporation
1480 Terrell Mill Road, SE
Suite 104
Marietta, Georgia 30067
Telephone: 678-202-0812
Email: brian.lisle@telrite.com

D. Previous ETC Designations:

To date, Telrite has received ETC designation on a wireless carrier basis in Arkansas, Illinois, Louisiana, Maryland, Missouri, Georgia, Minnesota, Rhode Island, Indiana, Oklahoma, West Virginia and Puerto Rico, and has pending applications Washington, Wisconsin, Pennsylvania, Mississippi, New Jersey, Michigan, and California.

III. TELRITE REQUESTS ETC DESIGNATION FOR PARTICIPATION IN THE LIFELINE PROGRAM.

A. The Commission has the Authority to Grant ETC Designations.

As a result of the work and cooperation of federal and state regulators, the FCC has adopted a number of cost recovery policies and mechanisms designed to promote and maintain universal service. One key component of universal service is the availability of subsidies from the federal Universal Service Fund (“USF”), created by the Act. The USF was created, in part, to provide support to qualifying low-income communications end-users such as those serviced by Telrite. Mechanisms were also established to moderate the amount of costs to be recovered through basic, recurring charges to low-income users, thereby assisting efforts to maintain reasonable basic rate levels. Only a “common carrier” receiving designation as an ETC under 47 U.S.C. § 214 is eligible

to receive subsidies from the federal USF. Wireless carriers are common carriers under federal law.¹

Common carriers that provide services consistent with the requirements of Section 214(e) may be deemed ETCs.² Section 214(e)(2) of the Act³ provides that:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State 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 eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

Section 214(e)(1) of the Act⁴ provides:

A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

The FCC has promulgated rules governing ETC designations, set forth at 47 C.F.R. § 54.101, §§ 54.201-203, and §§ 54.205-207 (the “FCC Rules”) to establish various requirements for carriers to obtain ETC status. Applicants seeking ETC status in Utah must

¹ 47 U.S.C. § 332(c)(1).

² 47 U.S.C. § 214(e)(6) provides that wireless carriers not otherwise subject to state commission jurisdiction shall be designated as ETCs if they meet the requirements of 47 U.S.C. § 214(e)(1) consistent with applicable federal and state law.

³ 47 U.S.C. § 214(e)(2).

⁴ 47 U.S.C. § 214(e)(1).

address and satisfy each of the ETC designation criteria under the FCC Rules.

Pursuant to 47 U.S.C. § 214(e)(2), the Commission has the statutory authority to designate a common carrier as an ETC that offers the services supported by federal Universal Service Fund support mechanisms and advertises “the availability of such services and the charges therefore using media of general distribution.”⁵

B. Telrite Requests ETC Designation in its Existing Service Territory.

Telrite is a common carrier and reseller of commercial mobile radio service, and will offer all of the services and functionalities detailed in Section 54.101(a) of the FCC Rules and will provide competitive wireless services throughout its Service Area through resale of other carrier’s services. The provision of services through resale of other carrier’s services will ensure that Telrite can provide services to customers throughout the Service Area.⁶ As discussed in subsequent sections of this Petition, Telrite has filed a compliance plan with the FCC. Additionally, Telrite will advertise the availability of such services and the charges for these services using media of general distribution and commits to continue to advertise the availability of its Lifeline program.

As a non-rural carrier, Telrite is required to describe the areas within which it requests ETC designation. The Company requests ETC designation for its entire service area in Utah, which corresponds with the area served by AT&T in the State of Utah.⁷ Telrite understands that its service area overlaps with a number of rural carriers in Utah, but maintains that the public interest factors described below justify its designation in these carriers’ service areas, especially because it only seeks ETC designation for purposes of participating in the Lifeline program.

⁵ 47 C.F.R. § 54.201(d)(2).

⁶ 47 C.F.R. § 54.101(a).

⁷ A list of the wire centers for which Telrite requests ETC designation is attached hereto as Exhibit B.

C. Description of Prepaid Lifeline Offering.

Telrite will offer qualified consumers their choice of one of three Lifeline Service Plans. Lifeline is a component of one of four separate federal Universal Service Fund mechanisms⁸ known as the “low-income support mechanism”⁹ and is defined in 47 C.F.R. § 54.401 as “a non-transferable retail local service offering” “for which qualifying low-income consumers pay reduced charges” and “[t]hat provides voice telephony service as specified in § 54.101(a).”¹⁰ Telrite offers customers an alternative plan that permits a customer to make calls a specified number of minutes of use to place and receive calls throughout the country. Telrite’s Lifeline offerings will go beyond those of other wireless providers, as well as those of ILECs in a very important respect: Telrite’s Lifeline customers will receive as part of Lifeline service specified amounts of free wireless service and a free handset. That is, Lifeline customers will be able to use Telrite’s service to initiate and receive specified amounts of wireless calling -- local and long distance with no charge to the customers and with no cost for obtaining a handset.

Telrite will provide qualified Lifeline customers in Utah with their choice of 68, 125 or 250 anytime prepaid minutes per month at no charge. Minutes do not expire for the 68 and 125 minute plans and unused minutes are rolled over to the next month. Unused minutes for the 250 minute plan do not roll over. Text messaging is available at the rate of:

- (a) 68 Minute Plan: 1/3 minute (*i.e.*, 3 SMS texts per voice minute)
- (b) 125 Minute Plan: 1/2 minute (*i.e.*, 2 SMS texts per voice minute)
- (c) 250 Minute Plan: 1 minute (*i.e.*, 1 SMS per voice minute)

⁸ 47 C.F.R. § 54.8(a)(1); See “Definitions” at second sentence.

⁹ 47 C.F.R. § 54.8(a)(1); See “Definitions” at first sentence.

¹⁰ 47 C.F.R. §§ 54.401(a); 54.401(a)(1); 54.401(a)(2); 54.405(a).

Lifeline customers can purchase additional bundles of minutes in denominations of \$10.00, \$25.00, \$7.95, \$12.95, \$21.49 and \$29.95.¹¹ Airtime, when used for standard cellular calls, is valued at and will be decremented at the following rates:

- (a) \$10.00 denomination - \$0.099 per minute of use;
- (b) \$25.00 denomination - \$0.0708 per minute of use;
- (c) \$7.95 denomination - 3 day Unlimited Talk and SMS;
- (d) \$12.95 denomination - 1 week Unlimited Talk and SMS;
- (e) \$21.95 denomination – 2 weeks Unlimited Talk and SMS;
- (f) \$29.95 denomination – 1 month Unlimited Talk and SMS

Airtime “top-up” minutes are available for purchase at the Company’s retail locations, through any Money Gram location and on the Company’s website.¹² Additional information regarding the Company’s plans, rates and services can be found on its website:

www.lifewireless.com. In addition to free voice services, Telrite’s Lifeline plan will custom calling features at no charge, including Caller ID, Call Waiting, Call Forwarding, 3-Way Calling, Voice Mail, No Roaming charges and free access to Customer Care by dialing 611 from customers’ Life Wireless handset or by dialing 1-888-543-3620 from any wireline phone. All plans include domestic long-distance at no extra per minute charge. Calls to 911 emergency services are always free, regardless of service activation or availability of minutes. The terms and conditions of its voice telephony service plans offered to Lifeline subscribers are detailed in the Compliance Plan attached hereto as **Exhibit “D”** and on the Terms of Service attached hereto as **Exhibit “F”**.

Under Telrite’s proposed low-income wireless offering, each eligible wireless customer will receive a 911 compliant handset at no cost to the subscriber. Wireless handsets will be delivered at

¹¹ The \$29.95 rate for unlimited talk and text is available only to Life Wireless customers that purchase online or by calling Telrite customer service. The retail rate available in stores is \$42.95, which is set to be reduced to a yet undetermined rate.

¹² Top-up minutes are provided using the PureTalk USA and Pure Unlimited brands, by Puretalk Holdings, LLC, a sister company of Telrite with common ownership, though not technically an affiliate.

no charge to qualifying customers, service will be activated, and the requisite number of minutes will be added upon certification of the customer for Lifeline.

IV. TELRITE SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC

A. Telrite is a Common Carrier.

Telrite is a common carrier and reseller of commercial mobile radio service, and will offer all of the services and functionalities detailed in Section 54.101(a) of the FCC Rules and will provide competitive wireless services throughout its Service Area through resale of other carrier's services. The provision of services through resale of other carrier's services will ensure that Telrite can provide services to customers throughout the Service Area. As discussed in subsequent sections of this Petition, Telrite has filed a compliance plan with the FCC. Additionally, Telrite will advertise the availability of such services and the charges for these services using media of general distribution and commits to continue to advertise the availability of its Lifeline program.

B. Telrite Meets the Requirements set forth in the FCC Rules.

Telrite meets the requirements set forth in the FCC Rules for obtaining ETC designation for purposes of receiving Lifeline funding support:

(a) Certification of Telrite's compliance with the service requirements applicable to the support that it receives;

(b) Demonstration of Telrite's ability to remain functional in emergency situations, including a demonstration of possession of reasonable amount of back-up power to ensure functionality without an external power source, and ability to reroute traffic around damaged facilities, and capability of managing traffic spikes resulting from emergency situations;

(c) Demonstration that Telrite satisfies the applicable consumer protection and service quality standards;

(d) Demonstration of Telrite's financial and technical capability of providing the Lifeline service in compliance with subpart E of the FCC's rules and regulations.

(e) Submission of information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan; and

(f) Demonstration that ETC designation is in the public interest.

Finally, designation of Telrite as an ETC on a wireless basis is in the public interest of the State of Utah and its low-income telecommunications end-users. Upon designation as an ETC, Telrite will make Lifeline service available to qualifying customers in the Service Area pursuant to the guidelines and requirements of the universal service program and 47 C.F.R. § 54.202.

C. Telrite Meets the Requirements for Designation as an ETC to Serve Undesignated Non-Rural Areas in Utah.

As demonstrated below, Telrite meets the requirements for ETC designation by the Commission pursuant to Section 214(e)(2) of the Act.¹³ In addition, Telrite complies with the standards established by the FCC for determining whether applicants for ETC status serve the public interest.¹⁴ The FCC has determined that applications for ETC status in "non-rural" areas are *per se* in the public interest.¹⁵

¹³ 47 U.S.C. § 214(e)(2).

¹⁴ See Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45, 20 FCC Rcd 6371, ¶ 40-43 (Rel. March 17, 2005).

¹⁵ Federal-State Joint Board on Universal Service; Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier, *Memorandum Opinion and Order*, CC Docket No. 96-45, 16 FCC Rcd 39, 45; -U 14 (Rel. Dec. 26, 2000) (hereinafter "*Cellco Partnership*") ("For those areas served by non-rural telephone companies, such as the state of Delaware, we believe that designation of an additional ETC based upon a demonstration that the requesting carrier complies with the statutory eligibility obligations of section 214(e)(1) is **consistent per se with the public interest**. The carrier need make **no further showing** to satisfy this requirement.") (emphasis added).

The Commission has jurisdiction to designate Telrite as an ETC. Pursuant to the provisions of Section 214(e)(2) of the Act, state commissions, such as this Commission, have primary responsibility for the designation of eligible telecommunications carriers under Section 214(e)(2). As shown in this Petition, Telrite meets the requirements for designation as an ETC in Utah. The Commission may and should grant Telrite's request for ETC status.

Telrite has the financial and technical capability to provide Lifeline service. As part of the Lifeline Reform Order, the FCC amended its rules to require a carrier seeking designation as a Lifeline-only ETC to demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with all of the low-income program rules.¹⁶ Telrite satisfies these criteria.

Telrite has been offering Lifeline service to customers since October, 2010. Telrite also offers several other telecommunication services in addition to its Lifeline service. In 2011, the wireline services offered by Telrite produced substantial net income. This revenue was generated from more than 30,000 customers of Telrite's local and long distance service, which Telrite has been providing for over 10 years. In sum, Telrite has access to sufficient funds to run its business and is not solely dependent on reimbursements from the Fund. The Company has not been subject to enforcement sanctions or ETC revocation proceedings in any state.

Telrite attaches as **Exhibit "C"** a current list of its officers, along with biographical information for each, showing that it has the expertise necessary to provide the services specified herein.

¹⁶ 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 Reform Order").

Telrite will offer all required services and functionalities. Section 214(e)(1)(A) of the Act¹⁷ requires an ETC to offer the services that are supported by federal universal service support mechanisms under section 254(c). Effective December 29, 2011, pursuant to the USF/ICC Transformation Order¹⁸, as further clarified by the USF/ICC Order on Reconsideration¹⁹, the FCC eliminated its former list of nine supported services and amended section 54.101(a) of its rules to specify that “voice telephony service” is supported by the federal universal service mechanisms. The amended Section 54.101(a) and its list of supported services reads as follows:

§ 54.101 Supported services for rural, insular and high cost areas.

(a) Services designated for support. Voice telephony service shall be supported by federal universal service support mechanisms. The functionalities of eligible voice telephony services include 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, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).

Upon designation as an ETC in Utah, and consistent with state and federal policies favoring universal service, Telrite will offer voice telephony services as described in the amended Section

¹⁷ 47 U.S.C. § 214(e)(1).

¹⁸ In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“USF/ICC Transformation Order”).

¹⁹ In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Order on Reconsideration, FCC 11-189 (rel. Dec. 23, 2011) (“USF/ICC Order on Reconsideration”).

54.101 of the FCC Rules.²⁰ To the extent that the Commission continues to require ETCs to provide those services supported by federal universal service support mechanisms previously enumerated in 47 C.F.R. § 54.101(a), Telrite commits to continue to satisfy state voice service requirements.²¹

The Company also will provide access to emergency services provided by local government or public safety officials, including 911 and enhanced 911 (“E911”) where available and will comply with any Commission requirements regarding E911-compatible handsets. As discussed above, the Company will comply with the Commission’s forbearance grant conditions relating to the provision of 911 and E911 services and handsets. Telrite also commits to remit 911 revenues to local authorities. The Company commits to pay in a timely manner all applicable federal, state and local regulatory fees, including but not limited to universal service and E911 fees.²²

Telrite will not provide toll limitation service (“TLS”), which allows low-income consumers to avoid unexpected toll charges. However, since the Company is a prepaid service provider, customers cannot be disconnected for failure to pay toll charges, nor are there additional charges for exceeding their minutes. Further, the Company, like most wireless carriers, does not differentiate domestic long distance toll usage from local usage and all usage is paid for in advance. Pursuant to the Lifeline Reform Order, subscribers to such services are not considered to have voluntarily elected to receive TLS.²³

Telrite will provide wireless service through resale. Under Section 214(e)(1)(A) of the Act, an ETC must offer the services supported by federal universal service support mechanisms throughout its designated service area “either using its own facilities or a combination of its own

²⁰ 47 C.F.R. §§ 54.101(a).

²¹ USF/ICC Transformation Order at ¶ 82.

²² See TracFone Wireless, Inc. Petition to Rescind State 911/E911 Condition, FCC Docket No. 96-45 (May 3, 2010).

²³ Lifeline Reform Order at ¶ 230.

facilities and resale of another carrier's services.”²⁴ In its Lifeline Reform Order, the FCC decided to forbear, on its own motion, from applying the facilities requirement of Section 214(e)(1)(A) to any telecommunications carrier that seeks limited ETC designation to participate in the Lifeline program, conditioned on the ETC's compliance with certain 911 requirements and the ETC's filing with and approval by the FCC of a compliance plan describing the ETC's adherence to certain protections prescribed by the FCC (“Blanket Forbearance”).

Telrite seeks limited ETC designation in Utah to participate in the Lifeline program and has opted to pursue Blanket Forbearance. On March 12, 2012, Telrite filed its Compliance Plan (“Compliance Plan”) with the FCC. A copy of the Compliance Plan is attached hereto as **Exhibit “D”**.²⁵ Telrite will provide the Commission a copy of the FCC's approval of the Compliance Plan when received.

Telrite, in its provision of wireless services, will offer resold services which Telrite will obtain from its underlying wireless provider, AT&T. This extended footprint allows Telrite to provide expanded coverage throughout otherwise underserved markets.

Telrite has developed and implemented a diverse network that delivers all of the services required by the federal Lifeline guidelines, and employs AT&T to ensure ubiquitous coverage.

Through its service arrangements, Telrite is able to offer all of the services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the FCC Rules, throughout its Service Area.

²⁴ 47 U.S.C. § 214(e)(1)(A).

²⁵ The Company's Compliance Plan filed with the FCC is a public document and subject to comment at the FCC, which has determined to treat the filing as a “permit-but-disclose” proceeding in accordance with the FCC's *ex parte* rules, found at 47 C.F.R. §§ 1.1200 *et seq.* See, *FCC Public Notice DA 12-314*, WC Docket Nos. 09-197, 11-42, Released February 29, 2012.

Telrite will advertise the availability of the supported services. The FCC adopted specific requirements for Lifeline advertising in its Lifeline Reform Order with which the Company will comply.²⁶ Within the deadline provided in the Lifeline Reform Order, the Company will include the following information regarding its Lifeline service on all marketing materials describing the service: (1) it is a Lifeline service, (2) Lifeline is a government assistance program, (3) the service is non-transferable, (4) only eligible consumers may enroll in the program, (5) the program is limited to one discount per household; (6) documentation necessary for enrollment; (7) Telrite's name (the ETC); (8) notice that consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program; and (9) details of the Lifeline service offerings.²⁷ These statements will be included in all print, audio video and web materials (including social networking media) used to describe or enroll customers in the Company's Lifeline service offering, as well as the Company's application forms and certification forms.²⁸ This specifically includes the Company's website and outdoor signage.²⁹

Telrite is fully prepared to and will comply with federal requirements that it advertise the availability of its services throughout its Service Area using media of general distribution.³⁰ Telrite further commits that it will also publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.³¹ Telrite specifically targets its advertising so as to reach its intended market base of low-income consumers who otherwise would be without service, or unaware of the program's availability and benefits. Accordingly, more low-income Utah

²⁶ Lifeline Reform Order at ¶¶ 275-82.

²⁷ Lifeline Reform Order at ¶ 275.

²⁸ Id.

²⁹ Id.

³⁰ 47 C.F.R. § 54.201(d)(2).

³¹ 47 C.F.R. §§ 54.405(b).

residents will be made aware of the opportunities afforded to them under the Lifeline program and will be able to take advantage of those opportunities by subscribing to Telrite's service. A sample of Telrite's planned advertising is attached hereto as **Exhibit "E."**

V. ADDITIONAL ELIGIBILITY CRITERIA

The additional requirements for designation of ETCs were recently amended by the FCC. Effective April 2, 2012, 47 C.F.R. § 54.202 imposes a number of changed requirements in order to be designated an ETC under Section 214(e)(6). Telrite will comply with the requirements of 47 C.F.R. § 54.202.

Telrite will comply with the service requirements. Per the requirements of 47 C.F.R. § 202(a)(1)(i) Telrite certifies that it will comply with the service requirements applicable to the low-income support it receives as a result of designation as an ETC for purposes of receiving Lifeline. Telrite not only commits to provide service throughout its Service Area, but also commits to provide universal service in a timely manner to all customers who make a reasonable request for service pursuant to the FCC Rules.³² If designated as a wireless ETC, Telrite will provide service throughout its Service Area through a combination of its own facilities and the resale of services. Telrite is willing to accept carrier of last resort obligations throughout the universal service areas in which Telrite is designated as an ETC by the Commission.

Telrite will comply with the consumer protection standards set by the FCC, including:

(a) Customer Proprietary Network Information - Telrite will satisfy all consumer privacy protection standards as provided in 47 C.F.R. § 64, Subpart U as applicable and will protect

³² 47 C.F.R. § 54.202(a)(1) also requires the submission of a five-year plan demonstrating how high-cost universal service support will be used to improve the ETC's coverage, service quality and capacity. This requirement, however, is inapplicable to this application, since Telrite is not seeking high-cost assistance.

Customer Proprietary Network Information (“CPNI”) as required by state and federal law and will certify compliance with the same on an annual basis.

(b) Consumer Code for Wireless Service - Telrite certifies that it will comply with the Cellular Telecommunications and Internet Association’s (“CTIA”) Consumer Code for Wireless Service as required by 47 C.F.R. § 54.202(a)(3).

(c) General Compliance - Telrite commits to reporting information on consumer complaints per 1,000 lines on an annual basis consistent with the FCC’s USF Order.³³ Telrite in general commits to satisfying all applicable state and federal requirements related to consumer protection and service quality standards.

As a reseller of other carriers’ wireless services, Telrite is able to offer service of the same quality and reliability as the underlying vendors. Telrite cannot guarantee that customers will never experience service disruptions, however, Telrite’s underlying carrier agreements allow its service to be as reliable as any other wireless service that must deal with atmospheric and other conditions that sometimes result in dropped calls.

Further, under the FCC Rules, an ETC applicant must demonstrate its ability to remain functional in emergency situations.³⁴ Since Telrite is providing service to its customers through the use of facilities obtained from another carrier, it is able to provide to its customers the same ability to remain functional in emergency situations as currently provided by the underlying carrier to its own customers, including access to 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 of

³³ Federal-State Joint Board on Universal Service, First Report and Order, 12 FCC Rcd 8776 at ¶ 4 (1997) (“USF Order”).

³⁴ 47 C.F.R. § 54.202(a)(2).

managing traffic spikes resulting from emergency situations. Facilities owned by Telrite are capable of remaining fully functional with generator back-up as described above.

VI. DESIGNATION OF TELRITE AS AN ETC IN THE STATE OF MASSACHUSETTS SERVES THE PUBLIC INTEREST

Telrite will provide competitive wireless services throughout its Service Area in the State of Massachusetts. Telrite is a reseller of commercial mobile radio service, and will offer all of the services and functionalities detailed in Section 54.101(a) of the FCC Rules and will provide competitive wireless services throughout its Service Area through resale of other carriers' services. The provision of services through resale of other carriers' services will ensure that Telrite can provide services to customers throughout the Service Area.³⁵

Wireless ETC's *per se* promote the public interest. The FCC has determined that while "[d]esignation of competitive ETCs promotes and benefits consumers...by increasing customer choice," designation must include "an affirmative determination that such designation is in the public interest regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier."³⁶ In areas served by non-rural ILECs, the Act does not require a separate public interest finding. The FCC has previously held that designating a competitor as an ETC in areas served by non-rural ILECs is *per se* in the public interest.³⁷

Telrite seeks designation as an ETC in non-rural Utah. Although Telrite is seeking ETC designation in areas typically served by wireline carriers, Telrite's designation as an ETC will provide a valuable alternative to the existing telecommunications services currently available in these areas.

³⁵ 47 C.F.R. § 54.101(a).

³⁶ See Federal-State Joint Board on Universal Service, 20 FCC Rcd 6371, ¶ 42 (2005).

³⁷ See *Cellco Partnership*, 16 FCC Rcd, at 45.

Even though a demonstration is not required, Telrite submits that the public interest benefits of designating Telrite as an ETC include 1) a larger local calling area and expanded coverage area via multiple underlying carriers (as compared to traditional wireline carriers and single wireless carriers); 2) the convenience, portability, and security afforded by mobile telephone service; 3) the opportunity for customers to control cost by receiving a pre-set amount of flat-rate monthly airtime; 4) the ability to purchase additional low-cost usage at multiple convenient locations in the event that included usage has been exhausted; 5) the ability of users to use the supported service to send and receive “SMS” or text messages as well as the option to send data and access the public internet; and 6) 911 and, where available, enhanced 911 service in accordance with current FCC requirements. In addition, the inclusion of domestic telephone toll calling as a part of Telrite’s flat-rate wireless offering allows consumers to avoid the risks of becoming burdened with significant and unexpected per-minute charges for domestic telephone toll and overage charges. These per-minute overruns form the basis of a substantial number of consumer complaints to state and federal regulators. Accordingly, Telrite’s offerings will help to reduce this burden on public utility regulatory boards by obviating the cause for such complaints.

The FCC has also identified factors that are to be considered in determining whether designation of additional ETCs will serve the public interest and whether the benefits of an additional ETC would outweigh potential harms. These factors include: 1) the benefits of increased competitive choice; and 2) the unique advantages of the applicant company’s service offerings.³⁸ Telrite affirms that its ETC designation meets these criteria as described below.

The Benefits of Increased Competitive Choice

³⁸ 47 U.S.C. § 54.202(c).

The FCC has long acknowledged the benefits to consumers of being able to choose from a variety of telecommunications providers and the resulting variety of telecommunications services they provide.³⁹ This is of particular interest in cases where wireless providers like Telrite seek to provide service as an alternative to the ILEC. In the *Highland Cellular* case, the FCC recognized and affirmed that some households may not have access to the public switched network as provided by the ILEC.⁴⁰ The availability of a wireless competitor benefits all consumers. The availability of a wireless competitor benefits consumers who routinely drive long distances to attend work or school or to accomplish everyday tasks such as shopping or attending community and social events. The wireless service offered by Telrite will provide these consumers with a convenient and affordable alternative to traditional telecommunications service that can be used while at home and away from home.

Added together, Telrite expects these additional competitive advantages to create an atmosphere that will cause many qualified consumers, at their option, to select Telrite's low-income wireless Lifeline service in lieu of the more traditional wireline or wireless services.

Designation of Telrite as an ETC also creates competitive pressure for other wireline and wireless providers within the proposed service areas. In order to remain competitive in low-income markets, therefore, all carriers will have greater incentives to improve networks, increase service offerings and lower prices. This results in improved consumer services and, consistent with federal law, benefits consumers by allowing Telrite to offer the services designated for support at rates that are "just, reasonable, and affordable."⁴¹

³⁹ See e.g. *Specialized Common Carrier Services*, 29 FCC2d 870 (1971).

⁴⁰ Federal-State Joint Bd. on Universal Serv., *Highland Cellular, Inc., Memorandum Opinion and Order*, 19 F.C.C.R. 6422 (2004).

⁴¹ 47 U.S.C. § 254(b)(1).

Unique Advantages of Telrite's Service Offerings

Telrite will offer a unique, easy to use, competitive and highly affordable wireless telecommunications service, which it will make available to qualified consumers who either have no other service alternatives or who choose a wireless prepaid solution in lieu of more traditional services. Telrite's standard customer terms and conditions in connection with its wireless service offering can be found at www.lifewireless.com.

Telrite will announce and advertise telecommunications services as an ETC in its Service Area and will publicize the availability of Lifeline services in a manner reasonably designed to reach those likely to qualify for those services. Accordingly, more low-income Utah residents will be made aware of the opportunities afforded to them under the Lifeline program and will be able to take advantage of those opportunities by subscribing to Telrite's service. A sample of Telrite's planned advertising is attached hereto as **Exhibit "E."**

Telrite will provide universal service as an ETC in all of its Service Area.

Telrite is willing to accept carrier of last resort obligations throughout the universal service areas in which Telrite is designated as an ETC by the Department.

Telrite will provide equal access to long distance carriers, to the extent to which it is able to do so.

Telrite offers a local usage plan comparable to that offered by the ILEC in the Service Area for which it seeks designation.

Telrite requests ETC designation in Utah for the sole purpose of participating in the federal Lifeline program as a prepaid wireless carrier. Telrite will not seek to provide services supported by the USF's high-cost program or the Utah universal service program. As more fully described below, the instant request to participate in the Lifeline program promotes the goals of universal service and offers many benefits to low-income customers in the State of Utah. The services provided by Telrite

will contain many features specifically designed for qualifying customers. Indeed, Telrite's Lifeline plans will provide affordable and convenient wireless services to qualifying Utah customers, many of whom are otherwise unable to afford wireless services.

Telrite's designation as an ETC solely for Lifeline purposes also would not unduly burden the USF or otherwise reduce the amount of funding available to other carriers. The secondary role of Lifeline support with respect to overall USF expenditures is well documented. According to the most recent monitoring report released by the Federal-State Joint Board on Universal Service, Lifeline funding represented approximately 10% of total USF expenditures in 2009.⁴²

Telrite reiterates that it is applying for ETC designation solely for the purpose of providing Lifeline discounts to qualified low-income consumers and to seek reimbursement for the same and will not seek or accept high-cost support. Under the FCC Rules, an ETC applicant must submit a five-year plan that describes with specificity the proposed improvements or upgrades to the applicant's network on a wire-center-by-wire-center basis throughout its proposed Service Area. The only circumstance warranting deviation from this requirement is where an applicant's requested ETC serving territory would qualify it to receive no "high cost" USF support, but only "low income" USF support. Because Telrite seeks ETC designation solely for purposes of reimbursement for provision of subsidized Lifeline services to eligible customers, submission of a five-year network improvement plan is not required at this time. Since Lifeline support is designed to reduce the monthly cost of telecommunication services for eligible consumers, is distributed on a per-customer basis, and is directly reflected in the price that the eligible customer pays, it is assured that all support received by the carrier is used to provide Lifeline services to consumers, thus promoting Lifeline and the availability of telephone service to low-income users, which is clearly in the public interest. In

⁴² See *Universal Service Monitoring Report*, CC Docket 98-202, Table 1.10 (released December, 2010).

addition, designation of Telrite as an ETC will not pose any adverse effect in the growth in the high-cost portions of the USF, nor will it create or contribute to an erosion of high-cost funding from any rural or non-rural telephone company.

The FCC reaffirmed this position when it stated that “the potential growth of the fund associated with high-cost support distributed to competitive ETCs” is not relevant to carriers seeking support associated with the low-income program.⁴³

The FCC also recognized that the total effect of additional low-income-only ETC designations would have a minimal impact on the fund when it stated that “any increase in the size of the fund would be minimal and would be outweighed by the benefit of increasing eligible participation in the Lifeline program, furthering the statutory goal of providing access to low-income consumers.”⁴⁴

It is also vital to recognize that in the case of Lifeline support, an ETC receives USF support *only* for the customers it obtains. In the scenario where a competitive ETC obtains a Lifeline customer from another ETC, only the “capturing” ETC provides Lifeline discounts and as a result, only the “capturing” ETC receives support reimbursement.

In addition, all providers are required to contribute a portion of the interstate revenues received from their customers to the Universal Service Fund. In accordance with current federal regulations, Telrite will make contributions based on that portion of its revenue that is determined to be interstate. As such, approving Telrite as an ETC will actually create contributions to the USF that were previously non-existent.

⁴³ Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (“TracFone Forbearance Order”) at ¶ 17.

⁴⁴ TracFone Forbearance Order, at ¶ 17.

Designation of Telrite as an ETC benefits the public interest of low-income consumers throughout Telrite's Service Area. Approval of Telrite's ETC Petition will serve the public interest by increasing participation of qualified consumers in the Lifeline program in the State of Utah. It will also increase the number of carriers eligible for federal USF support, thereby proportionately increasing the amount of federal USF dollars available to Utah consumers. Granting ETC status to Telrite will contribute to more Utah residents receiving Lifeline, thereby increasing the amount of federal USF dollars flowing into and thereby benefiting Utah residents. In short, Utah residents will get more of their money back.

The Lifeline service offered by Telrite also provides important benefits that are especially needed by low-income Utah residents in this time of economic downturn. As the Department is aware, the Dow Jones Average, a primary indicator of the health of the economy, has been at low ebb for a considerable period of time. Savings accounts, upon which many depend for emergencies and retirement, have significantly eroded. The availability of a mobile telephone will be critical to the efforts of the unemployed as they search for other employment opportunities. Without a regular paycheck, wireless telephone service would become a luxury beyond the means of many of those persons.

Telrite's Lifeline program will enable thousands of residents to obtain wireless service which would otherwise be unavailable to them. The economic circumstances indicate that low-income individuals, now more than ever, can greatly benefit from the advantages offered by Telrite's Lifeline service thus allowing those adversely impacted by the failing economy or job loss to have access to a free wireless service to assist in emergency situations, facilitate job search efforts, and to maintain contact with family members.

It is also a commonly accepted fact that in today's market, qualified Lifeline customers view the portability and convenience of wireless service not as a luxury, but as a necessity. Mobile service allows children to reach their parents, wherever they may be, allows a person seeking employment the ability to be contacted by potential employers, and provides end users with the ability to contact emergency service providers, regardless of location.

Finally, designation of Telrite as a wireless ETC will serve the public interest by furthering the extensive role that Telrite believes it will play in the provision of communications service to low-income consumers, transient users, and other consumers who, due to the restrictive credit criteria, deposit requirements, and long-term commitments of wireline and traditional wireless service providers, are without a viable alternative and are likely to remain so.

Telrite will comply with the uniform eligibility criteria established in new section 54.409 of the FCC Rules.⁴⁵ Therefore, all subscribers will be required to demonstrate eligibility based at least on: (1) household income at or below 135% of the Federal Poverty Guidelines for a household of that size; (2) the household's participation in one of the federal assistance programs listed in new section 54.409(a)(2); or (3) meeting eligibility criteria established by Utah for its residents, provided such criteria are based solely on income or factors directly related to income per new section 54.409(a)(3) of the FCC Rules. In addition, the Company will confirm that the subscriber is not already receiving a Lifeline service and no one else in the subscriber's household is subscribed to a Lifeline service.

Telrite will implement certification policies and procedures that enable consumers to demonstrate their eligibility for Lifeline assistance to Company personnel as detailed in the Lifeline Reform Order, together with any additional state certification requirements.⁴⁶ Consistent with federal

⁴⁵ 47 C.F.R. § 54.409 (effective June 1, 2012).

⁴⁶ Lifeline Reform Order at ¶61; 47 C.F.R. § 54.410(a).

requirements, Telrite requires customers to certify at the time of service activation and annually thereafter that they: 1) are the head of household; 2) participate in one of the state-approved means tested programs; 3) will be receiving Lifeline-supported services only from Telrite; 4) do not currently receive Lifeline support; and 5) will notify Telrite in the event that they no longer participate in the qualifying program.

If Telrite has a reasonable basis to believe that one of its Lifeline subscribers no longer meets the eligibility criteria, the Company will notify the subscriber of impending termination in writing and in compliance with any state dispute resolution procedures applicable to Lifeline termination, and give the subscriber 30 days to demonstrate continued eligibility.⁴⁷ A demonstration of eligibility must comply with the annual verification procedures found in Section 54.410(f), including the submission of a certification form.⁴⁸

Furthermore, Telrite commits to comply with the FCC's 60-day non-usage policy, as described in the Lifeline Reform Order.⁴⁹

VII. TELRITE WILL COMPLY WITH ALL ANNUAL REPORTING REQUIREMENTS

Consistent with the requirements of 47 C.F.R. § 54.422 (effective April 2, 2012), Telrite will comply with the FCC's annual reporting requirements:

(a) As required by 47 C.F.R. § 54.422(b)(1), Telrite will report, on an annual basis, "any outage in the prior calendar year, as that term is defined in 47 C.F.R. 4.5, of at least 30 minutes in duration" that potentially affects 1) at least ten percent of the end users served in a designated service area; or 2) a 911 special facility. The report will include 1) the date and time of the onset of the outage; 2) a brief description of the outage and its resolution; 3) the particular services affected 4) the

⁴⁷ Lifeline Reform Order at ¶ 143; 47 C.F.R. § 54.405(e)(1).

⁴⁸ 47 C.F.R. §54.410 (effective April 2, 2012).

⁴⁹ Lifeline Reform Order at ¶¶ 257-63.

geographic areas affected; 4) the steps taken to prevent a similar situation in the future; and 5) the number of customers affected.

(b) Consistent with the requirements of 47 C.F.R. § 54.422(b)(2), Telrite will annually report the number of complaints received by Telrite from the FCC, this Department, or the Better Business Bureau, per 1,000 connections.

(c) As required by 47 C.F.R. § 54.422(b)(3), Telrite will certify its continuing compliance with all applicable service quality standards and consumer protection rules.

(d) Consistent with the requirement of 47 C.F.R. § 54.422(b)(4), Telrite will certify, on an annual basis, its continued ability to remain functional in emergency situations.

(e) Consistent with the requirement of 47 C.F.R. § 54.422(b)(5), Telrite will annually provide information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including (i) the number of minutes provided, (ii) additional charges, if any, for toll calls, and (iii) rates for each plan.

VIII. ANTI-DRUG ABUSE CERTIFICATION

Telrite certifies that no party to this Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

IX. CONCLUSION

Having demonstrated that Telrite satisfies the conditions necessary for designation as an ETC in Utah, and having shown that the public and universal service interests of the telecommunications consumers of the State of Utah will be properly served, Telrite respectfully requests that the Commission designate Telrite Corporation d/b/a Life Wireless as an ETC for the provision of low income support on a wireless basis in the State of Utah.

RESPECTFULLY SUBMITTED this ____ day of _____, 2012.

KIRTON MCCONKIE, P.C.

By _____
David J. Shaw

518 West 800 North, Suite 204
Orem, Utah 84057

and

J. Andrew Gipson
Margarett A. Johnson
Jones, Walker, Waechter, Poitevent,
Carrère & Denègre L.L.P.
190 E. Capitol Street, Suite 800 (39201)
P. O. Box 427
Jackson, Mississippi 39205-0427

Counsel for Telrite Corporation d/b/a Life Wireless

_____, 2012

ATTACHMENT 1

VERIFICATION

Declaration of Telrite Corporation d/b/a Life Wireless

I, Brian Lisle, do hereby declare under penalty of perjury as follows:

1. I am the President of Telrite Corporation d/b/a Life Wireless, a Georgia corporation with its principal offices located at 4113 Monticello Street, Covington, Georgia 30014.

2. I have read Telrite's Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Utah and confirm the information contained therein to be true and correct to the best of my knowledge.

3. To the best of my knowledge, Telrite, including all officers, directors, or persons holding five percent or more of the outstanding stock or shares (voting or non-voting) of the Company are not subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

4. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on _____, 2012

Brian Lisle

EXHIBIT A

**ARTICLES OF INCORPORATION
AND
CERTIFICATE OF GOOD STANDING**

EXHIBIT B
WIRE CENTERS

EXHIBIT C
OFFICERS

EXHIBIT D

FCC COMPLIANCE PLAN

EXHIBIT E
SAMPLE ADVERTISING

EXHIBIT F
TERMS AND CONDITIONS