

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Petition of US Connect LLC	)	
	)	
for Designation as an Eligible Telecommunications	)	Docket No. _____
Carrier in the State of Utah	)	
_____	)	

**PETITION OF US CONNECT LLC  
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER  
IN THE STATE OF UTAH**

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**I. INTRODUCTION**

US Connect LLC (“US Connect” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)<sup>1</sup>, Sections 54.101 through 54.207 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”), hereby submits this Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Utah. US Connect seeks ETC designation solely to provide Lifeline and Link-Up service to qualifying Utah consumers; it will not seek access to funds from the federal or state Universal Service Fund (“USF”) for the purpose of providing service to high cost areas.<sup>3</sup> As demonstrated herein, and as certified in Exhibit 1 to this Petition, US Connect meets all the statutory and regulatory requirements for designation as an ETC in the State of Utah. Rapid grant of US Connect’s request, moreover, would advance the

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<sup>1</sup> 47 U.S.C. § 214(e)(2)

<sup>2</sup> 47 C.F.R. §§ 54.101-54.207.

<sup>3</sup> Given that US Connect only seeks support from the low-income program and does not seek any high-cost support, ETC certification requirements for the high-cost program are not applicable to the Company. Arkansas, Maryland and West Virginia, and currently has applications for ETC designation pending with Georgia, Illinois and Louisiana; no such petitions have been denied.

public interest because it would enable the Company to commence much needed Lifeline and Link-Up services to low-income Utah residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve this Petition for ETC designation.

All correspondence, communications, pleadings, notices, orders and decisions relating to this Petition should be addressed to:

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## **II. BACKGROUND**

### **A. Company Overview**

US Connect is a Georgia Limited Liability Company.<sup>4</sup> Its principal office is located at 705 Commerce Street, Southlake, Texas 76092. US Connect is a provider of commercial mobile radio service (“CMRS”) throughout the United States. US Connect provides prepaid wireless telecommunications services to consumers by using the Sprint Nextel (“Sprint”) network on a wholesale basis to offer nationwide service, and obtains from Sprint the network infrastructure and wireless transmission facilities to allow the Company to operate as a Mobile Virtual Network Operator (“MVNO”).

US Connect’s prepaid wireless services that are affordable and easy to use are attractive to low-income and lower-volume consumers, providing them with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in

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<sup>4</sup> US Connect was organized in the State of Georgia on January 7, 2011.

touch with friends and family and for contacting prospective employers. US Connect offers consumers simple and affordable prepaid calling plans, a variety of prepaid service plans, easy-to-use handsets and high-quality customer service. Given its pricing and marketing strategy and the demographics of other, similar MVNOs' customers, US Connect anticipates that many of its customers will be from low-income backgrounds and will not previously have enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. US Connect does not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service.

By providing affordable wireless plans and quality customer service to consumers who are otherwise unable to afford them, or were previously ignored by traditional carriers, US Connect will expand the availability of wireless services to many more consumers, which is the principal reason that Congress created the universal service program.

#### **B. Proposed Universal Service Offering**

US Connect has the ability to provide all services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)) throughout Utah. The Company will provide Lifeline and Link-Up services to qualifying customers requesting this service throughout Utah pursuant to the universal service program and in accordance with 47 C.F.R. § 54.202(a)(1). US Connect intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice usage at all price points. US Connect's prepaid offering will be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

i. **Lifeline Offering.** The Company's Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other US Connect prepaid

customers, with one notable exception: prepaid Lifeline services will be free of charge. Attached hereto as Exhibit 2 is a summary table of the Company's proposed Lifeline service offering. The Company's Lifeline service will provide customers with 100 anytime prepaid minutes per month at no charge. Lifeline customers will have the capability of purchasing additional bundles of minutes in denominations as low as \$5, \$10, and \$20.<sup>5</sup> Airtime replenishment cards will be made available at retail outlets frequented by low income customers throughout the Company's Service Area. Text messaging will be available at the rate of one-third of one minute (3 texts = 1 minute). In addition to free voice services, US Connect's Lifeline plan will include a free handset and the following Custom Calling features: Caller ID, Call Waiting, Call Forwarding, 3-Way Calling, and Voicemail. Customers may use their minutes to place domestic long distance calls at no additional charge. Calls to US Connect customer service will be free, and unused minutes will rollover. Calls to 911 emergency services are always free, regardless of service activation or availability of minutes.

ii. **Link-Up Offering.** Link-Up Assistance is in the form of a "reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection" and "shall be half of the customary charge or \$30.00, whichever is less".<sup>6</sup> Consistent with FCC requirements, US Connect will use Link-Up support to reduce the Company's \$60.00 standard wireless activation charge by \$30.00. Qualifying subscribers may request a deferred payment schedule for the remaining installation charges, thus allowing subscribers to obtain service without being required to pay any fees to activate service with US Connect. As such, there is no up-front connection charge applicable to US Connect Lifeline and Link-Up customers.

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<sup>5</sup> \$5 = 35 minutes, \$10 = 75 minutes, \$20 = 160 minutes, \$30 = 270 minutes, and \$50 = 700 minutes

<sup>6</sup> 47 C.F.R. § 54.411(a)(1).



Attached hereto as Exhibit 2 is a summary table of the Company's proposed Lifeline and Link-up service offerings. Customers may use their minutes to place domestic long distance calls at no additional charge. Calls to 911 emergency services are always free, regardless of service activation or availability of minutes. As Exhibit 2 demonstrates, the Company's Lifeline and Link-up offerings will not only allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber, but also will bring a variety of rate plans into the reach of eligible customers that are comparable in minutes and features to those available to post-paid wireless subscribers – but at low Lifeline rates and without a the burden of credit checks or service contracts. US Connect's prepaid offering will be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

### **C. Plan Enrollment**

Customers interested in obtaining information on the Lifeline and Link-Up programs will be directed to a toll-free telephone number and to the Company's website, which will contain information regarding the Company's Lifeline and Link-Up service plans, including a detailed description of the programs and state-specific eligibility criteria. Customers may then request that an enrollment form be mailed to them, or they can download a form from the internet. Applicants must complete the enrollment form, which will include a place where applicants must attest and certify under penalty of perjury that they satisfy the requisite eligibility criteria. In addition, each applicant is required to certify under penalty of perjury, at the time of application and annually thereafter, that they are head of their household and receive Lifeline-supported service only from US Connect. If not applying in person, the applicant must return the signed enrollment form and all supporting documentation to the address provided by US Connect. Processing of consumers' applications, including review of all application forms and relevant

documentation, will be performed under the Company's supervision by managers experienced in the administration of the Lifeline and Link-Up programs.

**D. Prevention of Waste, Fraud and Abuse**

US Connect recognizes the importance of safeguarding the USF. Therefore, the Company has implemented the following 60-day non-usage policy in an effort to avoid waste, fraud, and abuse of the program. If no usage appears on a US Connect Lifeline customer's account during any continuous 60-day period, the Company will promptly notify the customer that the customer is no longer eligible for US Connect Lifeline service subject to a 30-day grace period. During the 30-day grace period, the customer's account will remain active, but US Connect will engage in outreach efforts to determine whether the customer desires to remain on the Company's Lifeline service. If the customer's account does not show any customer-specific activity during the grace period, US Connect will promptly deactivate Lifeline services and cease to seek reimbursement from the USF for that customer. Customers that have been deactivated may participate in the Company's Lifeline service in the future by reapplying and re-establishing eligibility.

To further protect the integrity of the USF, US Connect has contracted with CGM, LLC of Roswell, Georgia, a lifeline service bureau, to edit all subsidy request data. CGM will process and validate the Company's subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from the Company will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) Inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through

the processes described above, US Connect ensures that it does not over-request from support funds.

### **III. THE COMMISSION HAS JURISDICTION TO DESIGNATE WIRELESS ETCs**

Section 214(e)(2) of the Act provides state public utility commissions with the “primary responsibility” for the designation of ETCs.<sup>7</sup> Although Section 332(c)(3)(A) of the Act prohibits states from regulating the entry of or the rates charged by any provider of commercial mobile service or any private mobile service, this prohibition does not allow states to deny wireless carriers ETC status.<sup>8</sup> Therefore, the Commission has the authority to designate US Connect as an ETC. Pursuant to this authority, the Commission has historically participated in determining whether to grant ETC status to an applying carrier, including any requesting wireless carrier.<sup>9</sup> Under the Act, a state public utility commission with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of section 214(e)(1). US Connect recognizes that Section 214(e)(1)(A) of the Act states that ETCs shall offer services, at least in part, over their own facilities and that Section 54.201(i) of the FCC’s Rules (47 C.F.R. § 54.201(i)) prohibits state commissions from designating as an ETC a telecommunications carrier that offers services exclusively through the resale of another carrier’s services. As discussed in Section IV.A below, US Connect has the capability to provide some of the supported services using its own facilities, and will thus fulfill the requirement that it provide service using a combination of its own facilities and resale of another carrier’s services. Therefore, the Commission has the authority to act under Section 214(e)(2) of the Act and to grant US Connect’s request for designation as an ETC throughout the State of Utah.

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<sup>7</sup> 47 U.S.C. § 214(e)(2).

<sup>8</sup> *USF Order*, at 8858-59, ¶ 145.

<sup>9</sup> *See In the Matter of the Petition of WWC Holding Co., Inc., for Designation as an Eligible Telecommunications Carrier*, Report and Order, Docket No. 98-2216-01 (July 21, 2000).

**A. The ETC Designation Request Is Consistent with Recent Commission Precedent**

US Connect's request for ETC designation is consistent with the Commission's recent designation of Virgin Mobile as an ETC.<sup>10</sup> In its decision, the Commission determined that Virgin Mobile satisfied all of the necessary eligibility requirements and that designation of a prepaid wireless provider as an ETC would serve the public interest. US Connect requests that the Commission expeditiously process its ETC Petition so that it can quickly commence providing qualifying low-income Utah customers with affordable USF-supported wireless services during these challenging economic times for all state residents. Designation of US Connect as an ETC would further competition for wireless Lifeline and Link-Up services and would offer eligible consumers an additional choice of providers for accessing telecommunications services, representing a significant step towards ensuring that all low-income consumers share in the many benefits associated with access to wireless services.

**IV. US CONNECT SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC**

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support." Section 214(e)(2) of the Act authorizes state commissions, such as the Commission, to designate ETC status for federal universal service purposes and authorizes the Commission to designate wireless ETCs.<sup>11</sup> Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of

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<sup>10</sup> See *In the Matter of Virgin Mobile USA, L.P. Petition for Limited Designation as an Eligible Telecommunications Carrier*, Docket No. 10-2521-01, Report and Order (May 25, 2011).

<sup>11</sup> See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) ("USF Order").

their own facilities and the resale of another carrier's services. Applicants also must commit to advertise the availability and rates of such services.<sup>12</sup> As detailed below, US Connect satisfies each of the above-listed requirements.

**A. US Connect Will Provide Service Through Resale And Its Own Facilities**

US Connect, in its provision of wireless services, will rely on a combination of resold services which the Company will obtain from underlying wireless providers that currently operate their own networks, as well as Company-owned facilities, thus allowing US Connect to meet the FCC's test that requires an ETC to provide services, at least in part, through a "combination of its own facilities and resale of another carrier's services".<sup>13</sup> US Connect's facilities provide the Company the ability to route interexchange services and directory assistance services, which are among the supported services.<sup>14</sup>

Currently, there is no state or federal definition or requirement as to the number of, or the amount of, the supported services that an ETC must offer via its "own facilities." Additionally, Federal law does not require any particular level of facilities. The FCC stated in its Universal Service Order, 12 FCC Rcd 8853, FCC 97-157 ("USF Order"), at para. 169 that:

*We adopt the Joint Board's analysis and conclusion that a carrier need not offer universal service wholly over its own facilities in order to be designated as eligible because the statute allows an eligible carrier to offer the supported services through a combination of its own facilities and resale. Although the Joint Board did not reach this issue, we find that the statute does not dictate that a carrier use a specific level of its "own facilities" in providing the services designated for universal service support given that the statute provides only that a carrier may use a "combination of its own facilities and resale" and does not qualify the term "own facilities" with respect to the amount of facilities a carrier must use. For the same reasons, we find that the statute does not require a carrier to use its own facilities to provide each of the designated services but, instead,*

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<sup>12</sup> See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

<sup>13</sup> See 47 U.S.C. § 214(e)(1)(A).

<sup>14</sup> See Exhibit 3 for the Company's wireless facilities schematic.

*permits a carrier to use its own facilities to provide at least one of the supported services.*

In affirming its own decisions, the FCC chose to continue to define the term “own facilities” as “*any physical components of the telecommunications network that are used in the transmission of the services that are designated for support*”<sup>15</sup> (emphasis added). The Communications Act’s definition of “network element” matches that of the FCC and defines a “network element” as “a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.”<sup>16</sup> All facilities-based carriers have and use network elements.<sup>17</sup>

## **B. US Connect Is a Common Carrier**

CMRS providers like US Connect are treated as common carriers for regulatory purposes.<sup>18</sup>

## **C. US Connect Will Provide All Required Services and Functionalities**

US Connect offers, or will offer upon designation as an ETC in Utah, all of the services

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<sup>15</sup> See 47 C.F.R. § 54.101; 47 C.F.R. § 54.201(e).

<sup>16</sup> See 47 U.S.C. § 153(29).

<sup>17</sup> Only ILEC network elements can be designated as “unbundled” under 47 U.S.C. § 251(c)(3) using the criteria in 47 U.S.C. § 251(d)(2), but all facility-based carriers, including nondominant wireline and wireless carriers also have “network elements.”

<sup>18</sup> *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory “mobile services” category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) (“mobile services” providers are common carriers); see also *PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) (“We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services and resellers of such services.”).

and functionalities required by Section 54.101(a)(1)-(9) and Section 54.202(a) of the FCC's Rules (47 C.F.R. § 54.101(a) and 47 C.F.R. § 54.202(a)) including the following:

**1. Voice Grade Access to the Public Switched Telephone Network**

US Connect provides voice grade access to the public switched telephone network ("PSTN") through the purchase of wholesale CMRS services from Sprint. Bandwidth for this voice-grade access is at minimum between 300 and 3,000 MHz as required by the FCC's rules.<sup>19</sup>

**2. Local Usage**

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers. The FCC has determined that a carrier satisfies the local usage requirements when it offers customers rate plans containing varying amounts of local usage.<sup>20</sup> The Company offers a variety of rate plans that provide its customers with local usage capabilities included within the flat per minute or per month rate.

**3. Dual Tone Multi-Frequency Signaling or its Functional Equivalent**

US Connect provides dual tone multi-frequency ("DTMF") signaling to expedite the transmission of call set up and call detail information throughout the network. All wireless handsets offered for sale by the Company are DTMF-capable.

**4. Single-Party Service or its Functional Equivalent**

"Single-party service" means that only one party will be served by a subscriber loop or access line during a telephone transmission. US Connect provides single party service to its customers for the duration of each telephone call, and does not provide multi-party (or "party-

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<sup>19</sup> See 47 U.S.C. § 54.101(a)(1).

<sup>20</sup> See e.g., *Farmers Cellular, Inc.*, CC Docket No. 96-45, Memorandum Opinion and Order, 18 FCC Rcd 3848, 3852 ¶ 9 (2003); *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, CC Docket No. 96-45, Memorandum Opinion and Order, 17 FCC Rcd 9589, 9593 ¶ 10 (2002); *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, 16 FCC Rcd 48, 52 ¶ 10 (2000).

line”) services.

#### **5. Access to 911 and E911 Emergency Service**

US Connect provides 911 and E911 access for all of its customers. US Connect also complies with the FCC’s regulations governing the deployment and availability of E911 compatible handsets.

#### **6. Access to Operator Services**

US Connect offers all of its customers access to operator services, in accordance with the FCC’s requirements.

#### **7. Access to Interexchange Service**

US Connect’s service provides its customers with the ability to make interexchange, or long distance, telephone calls. In fact, interexchange calls are included in the Company’s service with no additional charge.

#### **8. Access to Directory Assistance**

All US Connect customers are able to reach directory assistance services from their wireless handsets.

#### **9. Toll Limitation for Qualified Low-Income Customers**

Toll limitation allows customers to block the completion of outgoing long distance calls to prevent them from incurring significant long distance charges and risking disconnection. As described above, US Connect provides its wireless service on a prepaid, or pay-as-you-go, basis. US Connect’s service, moreover, is not offered on a distance-sensitive basis and minutes are not charged separately for local or domestic long distance services. Customers also must specifically authorize access for international services, for which additional charges may apply. As the FCC found in its grant of ETC designation to Virgin Mobile, “the prepaid nature of [a prepaid



wireless service provider's] service offering works as an effective toll control.”<sup>21</sup> The nature of US Connect's service, therefore, mitigates any concerns that low-income customers will incur significant charges for long distance calls resulting in disconnection of their service.

**D. US Connect Will Advertise the Availability of Supported Services**

US Connect will broadly advertise the availability and rates for the services described above using media of general distribution as required by Section 54.201(d)(2) of the FCC's regulations.<sup>22</sup> The Company will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline and Link-up services, using many mediums for outreach including internet, direct response radio and community events. The Company will engage in advertising campaigns specifically targeted to reach those likely to qualify for Lifeline and Link-Up services, promoting the availability of cost-effective wireless services to this neglected consumer segment.

US Connect will provide retail vendors with signage to be displayed wherever US Connect products are sold, and with printed materials describing the Company's Lifeline and Link-Up programs.<sup>23</sup> US Connect anticipates that the Company will be able to reach a broad array of eligible consumers through traditional advertising throughout the coverage areas of Sprint and, in the future, other carriers; and the Company will further extend their reach by focusing on educating consumers and increasing awareness of the low income programs through targeted internet marketing. US Connect will also promote the availability of its Lifeline and Link-up offerings by distributing brochures at various state and local social service agencies, and

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<sup>21</sup> See *Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, North Carolina, Pennsylvania, Tennessee and Virginia*, Order, FCC 09-18 (rel. March 5, 2009)(“*Virgin Mobile Order*”), 24 FCC Rcd at 3394 ¶ 34.

<sup>22</sup> See 47 C.F.R. § 54.201.

<sup>23</sup> See attached Exhibit 4 for sample advertisements.

intends to partner with nonprofit assistance organizations in order to inform customers of the availability of its Lifeline and Link-Up services.

Statistics suggest that there are many eligible customers who are not yet aware of the programs. According to the best data available to Applicant, as of December 31, 2010, fewer than 20% of consumers eligible for Lifeline and Linkup Services in the State of Utah were being provided such services.<sup>24</sup> US Connect believes that its advertising and outreach efforts detailed above will result in increased participation in the Lifeline and Link-Up programs.

**E. US Connect Requests Designation Throughout Its Service Area in Utah**

US Connect is not a rural telephone company as defined in Section 153(37) of the Act (47 U.S.C. § 153(37)). Accordingly, the Company is required to describe the geographic area(s) within which it requests designation as an ETC. US Connect requests designation as an ETC that is statewide in scope, subject to the existence of its underlying carrier's facilities and corresponding coverage.<sup>25</sup> US Connect understands that its service area may overlap with rural carriers in Utah, but maintains that the public interest factors described below justify its designation in these carriers' service areas, especially because it seeks ETC designation solely to utilize USF funding to provide Lifeline and Link-Up service to qualified low-income consumers. It does not seek and will not accept high cost support.

**F. Service Commitment Throughout the Proposed Designated Service Area**

US Connect provides service in Utah through a combination of its own facilities and by reselling service which it obtains from its underlying facilities-based provider. The provider's

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<sup>24</sup> See attached Exhibit 5, 2010 Lifeline Participation Rates by State, which was obtained from the Universal Service Administrative Company ("USAC"), an independent not-for-profit corporation designated as the administrator of the federal Universal Service Fund by the FCC. USAC administers Universal Service Fund (USF) programs for high cost companies serving rural areas, low-income consumers, rural health care providers, and schools and libraries. Also attached is an FCC News Release dated September 14, 2009.

<sup>25</sup> A list of wire centers in which the Company requests ETC designation is attached hereto as Exhibit 6.

network is operational and largely built out. Thus, US Connect will be able to commence offering its Lifeline and Link-Up service to all locations served by its underlying carrier very soon after receiving approval from the Commission. Therefore, the Company will be able to provide Lifeline and Link-Up service to all qualified customers on a timely basis or within a reasonable period of time in accordance with 47 C.F.R. § 54.202(a)(1). US Connect further commits to provide service throughout its proposed ETC-designated service area to all customers making a reasonable request for service, as required in 47 C.F.R. § 54.202(a)(1)(i).

#### **G. Five-Year Network Improvement Plan**

Under FCC guidelines, an ETC applicant must submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. This guideline has no application 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 US Connect seeks ETC designation solely for purposes of reimbursement for provision of subsidized Lifeline and Link-Up services to eligible customers, submission of a Five-Year Network Improvement Plan is not required. Since Lifeline support is designed to reduce the monthly cost of telecommunications services for eligible consumers, is distributed on a per-household 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.

#### **H. Ability to Remain Functional in Emergency Situations**

In accordance with 47 CFR §54.202(a)(2), US Connect has the ability to remain functional in emergency situations. Through its agreement with its underlying carrier, US Connect provides to its customers the same ability to remain functional in emergency situations

as currently provided by the ILECs to their own customers, including access to a reasonable amount of back-up power rerouting of traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations. US Connect does not own or operate any cell sites or microwave hubs, and facilities owned by the Company are collocated on a Tier 1 carrier's switching center, which is capable of remaining fully functional with both generator and battery back-up.

### **I. Commitment to Consumer Protection and Service Quality**

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.<sup>26</sup> The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. Specifically, US Connect commits to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

### **J. Local Usage Requirement**

An applicant for ETC designation must demonstrate that it offers a local usage plan that is "comparable" to the plan offered by the ILEC in the relevant service territory.<sup>27</sup> In analyzing whether an ETC applicant's plan is comparable to the underlying ILEC's, the FCC reviews all aspects of the plan on a case-by-case basis, including the nature of the supported service, the size of the local calling area, the inclusion of additional services (e.g., caller I.D., etc.) and the amount of local usage.<sup>28</sup>

Not only will the Company's offering be comparable to the underlying ILEC plans, but it also will exceed them in several respects. US Connect will offer customers a certain amount of

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<sup>26</sup> See 47 C.F.R. § 54.202(a)(3).

<sup>27</sup> 47 C.F.R. § 54.202(a)(4).

<sup>28</sup> See *Federal-State Joint Board on Universal Service*, Report and Order, 20 FCC Rcd 6371, 6385 (2005).

service free of charge. In contrast to the ILEC plans, which contain relatively small local calling areas, US Connect customers can use these free minutes to place calls statewide (or even nationwide) because US Connect does not constrict customers' use by imposing a local calling area requirement. US Connect will also provide Lifeline customers with E911 capabilities and access to voice mail, caller I.D., and call waiting services at no cost. The very nature of the wireless phone, i.e. mobility, has a tremendous benefit to many consumers, a benefit to which a monetary value cannot be easily assigned.

**K. Equal Access Requirement**

The FCC's Rules also require an applicant for ETC status to provide a certification that it acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area (47 C.F.R § 54.202(a)). US Connect acknowledges that it may be required to provide equal access to long distance carriers within its designated service area, and will abide by such a requirement

**L. US Connect Will Comply with Certification and Verification Requirements**

Section 54.416 of the FCC's Rules requires ETCs to certify a consumer's qualification for Link-Up, and Section 54.410 of the FCC's Rules requires ETCs to certify and verify a Lifeline customer's initial and continued eligibility. US Connect will certify and verify consumer eligibility in accordance with the FCC's requirements and with applicable Commission rules, and will comply with the outcome of Commission Docket No. 10-2528-01.

**M. US Connect Will Comply With All Regulations Imposed By The Commission**

By this Petition, US Connect hereby asserts its willingness and ability to comply with all the rules and regulations that the Commission may lawfully impose upon the Company's provision of service contemplated by this Petition. US Connect commits to pay into funds that receive monies from telecommunications surcharges, such as the Utah USF, 911 Emergency

Services Fund, and Poison Control Fund. Upon Commission request, the Company is prepared to answer questions or present additional testimony or other evidence about its services within the state.

**V. DESIGNATION OF US CONNECT AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST**

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.<sup>29</sup> There is no question that designation of US Connect as an ETC in Utah will further the public interest by providing Utah consumers, especially low-income consumers, with lower prices and higher quality services. Many low-income customers in Utah have yet to reap the full benefits of the intensely competitive wireless market. Whether because of financial constraints, poor credit history or intermittent employment, these consumers often lack the countless choices available to most consumers.

The instant request for ETC designation must be examined in light of the Act’s goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating US Connect as an ETC would significantly benefit low-income consumers eligible for Lifeline and Link-Up services in the State of Utah—the intended beneficiaries of universal service.

The public interest benefits of the Company’s wireless service include larger local calling areas (as compared to traditional wireline carriers), the convenience and security afforded by mobile telephone service, the opportunity for customers to control cost by receiving a preset

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<sup>29</sup> *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

amount of monthly airtime at no charge, the ability to purchase additional usage at flexible and affordable amounts in the event that included usage has been exhausted, 911 service and, where available, E911 service in accordance with current FCC requirements. The Company's Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Company customers. US Connect's Lifeline rate plans will not only allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber, but also will bring a variety of rate plans into the reach of Lifeline customers that are comparable in minutes and features to those available to post-paid wireless subscribers – but at low Lifeline rates and without the burden of credit checks or contracts.

US Connect's Lifeline and Link-Up programs will provide low-income Utah residents with the convenience and security offered by wireless services—even if their financial position deteriorates. According to the U.S. Department of Labor Bureau, Utah's unemployment rate was 7.4% as of September 2011. The economic circumstances indicate that low-income individuals, now more than ever, can greatly benefit from the advantages offered by the Company's Lifeline and Link-Up 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 all consumers, including qualified Lifeline and Link-Up 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. Providing US Connect with the authority necessary to offer

discounted Lifeline and Link-up services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

Moreover, grant of US Connect's Petition will serve the public interest in increasing the number of ETCs in Utah. By granting ETC status to US Connect, the Commission will enable the Company to increase the number of Utah residents receiving Lifeline and Link-Up support, thereby increasing the amount of USF money flowing into Utah. In sum, ETC designation in the State of Utah would enable US Connect to provide all of the public benefits cited by the FCC in its analysis in the *Virgin Mobile Order*. Namely, US Connect would provide "increased consumer choice, high-quality service offerings, and mobility,"<sup>30</sup> as well as the safety and security of effective 911 and E911 services.<sup>31</sup>

#### **A. The Benefits of Competitive Choice**

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than three decades.<sup>32</sup> Designation of US Connect as an ETC will promote competition and innovation, and spur other carriers to target low-income consumers with service offerings tailored to their needs and to improve their existing networks to remain competitive, resulting in improved services to consumers. Designation of US Connect as an ETC will help assure that quality services are available at "just, reasonable, and affordable rates" as envisioned in the Act.<sup>33</sup> Introducing US Connect into the market as an additional wireless ETC provider will afford low income Utah residents a wider choice of providers and available services while creating a competitive marketplace as ETCs compete for a finite number of Lifeline-eligible customers. Increasing the

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<sup>30</sup> See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

<sup>31</sup> See *Id.* at 3391 ¶ 23.

<sup>32</sup> See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

<sup>33</sup> See 47 U.S.C. § 254(b)(1).



competitive marketplace of providers has the potential to effectively increase the penetration rate and reduce the number of individuals not connected to the PSTN.

## **B. Impact on the Universal Service Fund**

US Connect's request for designation as an ETC solely for purposes of participating in the low-income programs of the USF would not unduly burden the USF or otherwise reduce the amount of funding available to other ETCs. According to the Joint-Board's most recent monitoring report, Lifeline funding totaled approximately \$974 million in 2009 while high-cost program expenditures amounted to approximately \$4.3 billion—more than four times the amount of Lifeline funding.<sup>34</sup> With Lifeline and Link-Up, ETCs only receive support for customers they obtain. The amount of support available to an eligible subscriber is exactly the same whether the support is given through a company such as US Connect or the Incumbent LEC operating in the same service area. US Connect will only increase the amount of USF Lifeline funding in situations where it obtains Lifeline customers not enrolled in another ETC's Lifeline program. Significantly, the Company's designation as an ETC will not increase the number of persons eligible for Lifeline support. US Connect's ability to increase the Lifeline participation rate of qualified low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service, and thus any incremental increases in Lifeline and Link-Up expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers.

## **VI. ANTI-DRUG ABUSE CERTIFICATION**

US Connect 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.

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<sup>34</sup> See *Universal Service Monitoring Report*, CC Docket 98-202, Tables 2.2 and 3.1 (2010).

## VII. CONCLUSION

Based on the foregoing, designation of US Connect as an ETC in the State of Utah accords with the requirements of Section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, US Connect respectfully requests that the Commission promptly designate US Connect as an ETC in the State of Utah.

Respectfully submitted,

*s/ Lance J.M. Steinhart*

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