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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition of U.S. Connect LLC for Designation as an Eligible Telecommunications Carrier in the State of Utah	Docket No. 11-2544-01
In the Matter of the Petition of Q Link Wireless LLC for Designation as an Eligible Telecommunications Carrier in the State of Utah	Docket No. 12-2549-01

MOTION TO STAY PROCEEDINGS AND SCHEDULE

The Utah Office of Consumer Services moves the Commission to stay all proceedings and schedules for testimony and hearings in the above dockets. The Office requests that the stay not apply to pending or future discovery. This motion is based upon Federal Communications Commission filing requirements pertaining to forbearance from facilities-based requirements for Lifeline-only ETCs imposed by the Report and Order and Further Notice of Proposed Rulemaking adopted January 31, 2012, released February 6, 2012, in WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45 and WC Docket No. 12-23, *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 et. al. (FCC Order). The FCC Order establishes conditions precedent to this Commission's consideration of the U.S. Connect and Q Link petitions.

Both petitions are described by and subject to paragraph 366 of the FCC Order:

366. On December 23, 2011, the Commission affirmed that only carriers that provide voice telephony as defined under section 54.101(a) as amended using their own facilities will be deemed to meet the requirements of section 214(e)(1). Thus, a Lifeline-only ETC does not meet the "own facilities" requirement of section 214(e)(1) if its only facilities are those used to provide functions that are no longer supported "voice telephony service" under amended rule 54.101, such as access to operator service or directory assistance. The Commission stated that to be in compliance with the rules, Lifeline only carriers that seek ETC designation after the December 29, 2011 effective date of the *USF/ICC Transformation Order and FNPRM*, as well as such carriers that had previously obtained ETC designation prior to December 29, 2011 on the basis of facilities associated solely with, for example, access to operator service or directory assistance, must either use their own facilities, in whole or in part, to provide the supported "voice telephony service," or obtain forbearance from the "own-facilities" requirement from the Commission. To avoid disruption to consumers of previously designated ETCs, however, the Commission set July 1, 2012 as the effective date of amended rule 54.101 for Lifeline-only ETCs in the service areas for which they were designated prior to December 29, 2011, to provide sufficient time to take further action related to the "own-facilities" requirement for Lifeline providers in this proceeding. [Footnotes omitted.]

However, in paragraph 368 of the FCC Order, forbearance from the amended "own facilities" requirements for Lifeline-only ETC designation is allowed upon certain conditions.

368. We forbear, on our own motion, from applying the Act's facilities requirement of section 214(e) (1) (A) to all telecommunications carriers that seek limited ETC designation to participate in the Lifeline program, subject to certain conditions noted below. For the reasons explained below, we find that all three prongs of section (10)(a) are satisfied and that, as a result, the Commission will forbear from the "own-facilities" requirement contained in section 214(e)(1)(A) for carriers that are, or seek to become, Lifeline-only ETCs, subject to the following conditions: (1) the carrier must comply with certain 911 requirements, as explained below; and (2) the carrier must file, and the Bureau must approve, a compliance plan providing specific information regarding the

carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary.⁹⁸³ The review and approval of all compliance plans is a critical element of our action today. These conditions will give the states and the Commission the ability to evaluate the Lifeline providers' offerings to low-income consumers and adherence with program rules before such companies may receive any Lifeline funds. At the same time, this grant of forbearance will re-allocate administrative resources that would otherwise be devoted to evaluating forbearance petitions subject to a statutory timeframe, resources that can otherwise be utilized to improve and oversee the Lifeline program. [Footnotes omitted.]

Additionally, the FCC Order in paragraph 380 provides that "No designations shall be granted for any pending or new Lifeline-only ETC applications filed with the states or the Commission after December 29, 2011, and carriers shall not receive reimbursement from the program, until the Bureau approves their compliance plans."

The Q Link petition is plainly subject to the FCC Order and Q Link filed its compliance plan on February 10, 2012 in WC Docket No. 09-197. Although US Connect filed its Utah petition prior to the December 29, 2011 deadline established by the FCC, the parties agree that the purpose and intent of the FCC Order requires that the FCC approve the compliance plan of any as yet undesignated ETC prior to this Commission's consideration of the petition. US Connect filed its compliance plan on February 15, 2012 in WC Docket No. 09-197. The FCC order is explicit that no company will receive reimbursements from the fund until the compliance plan has been approved. Therefore, the petitions should be stayed until the compliance plans has been approved by the FCC.

A procedural schedule for Q Link's petition has not been set. The procedural schedule for U.S. Connect's petition requires the parties to file responsive testimony by March 2, US Connect to respond by March 16, all parties to file witness and exhibit lists by April 6, and the hearing is April 12. Unless and until the own facilities/forbearance

issue is resolved with certainty, testimony and hearings cannot proceed. However, the parties agree that discovery during the stay will be helpful to examine the compliance plans and the FCC proceedings and when a new procedural schedule is requested.

The Office is informed that the Division of Public Utilities supports this motion, and no opposition from the applicants or other parties is anticipated.

DATED this 16th day of February 2012.

/s/ Paul H. Proctor

Paul H. Proctor

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Utah Office of Consumer Services

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing motion was served upon the following by electronic mail sent February 16, 2012:

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