

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of Q Link)
Wireless LLC for Designation as an Eligible) DOCKET NO. 12-2549-01
Telecommunications Carrier in the State of)
Utah) REPORT AND ORDER
)

ISSUED: December 14, 2012

SYNOPSIS

The Commission approves the petition of Q Link Wireless to be designated an Eligible Telecommunications Carrier in the State of Utah and to offer Lifeline universal service offerings pursuant to the terms of a settlement.

By The Commission:

This matter is before the Commission on the Petition of Q Link Wireless LLC (“Q Link”) for designation as an Eligible Telecommunications Carrier (“ETC”). Q Link seek this designation throughout the service area of Sprint Communications Company LP (“Sprint”) in the state of Utah, as defined by the wire centers specified in Exhibit 6 to Q Link’s Petition. Q Link identifies itself as a provider of commercial mobile radio service (“CMRS”) throughout the United States and prepaid wireless telecommunications services using the Sprint network.

PROCEDURAL HISTORY

Q Link filed the Petition on January 25, 2012. On February 1, 2012, the Commission issued a request to the Division of Public Utilities (“Division”) to investigate the Petition. On February 16, 2012, the Office of Consumer Services (“Office”) moved to stay this proceeding based upon a new Federal Communications Commission order (“FCC Order”)

pertaining to forbearance from facilities-based requirements for Lifeline-only ETCs.¹ As noted by the Office, the FCC Order established conditions precedent to this Commission's consideration of the Petition. The Commission granted the Office's motion on February 22, 2012.

On August 13, 2012, Q Link filed in this docket the public notice of the FCC's approval of Q Link's Third Amended Compliance Plan, addressing the requirements of the FCC Order. On September 6, 2012, the Commission issued a scheduling order and notice of hearing in this docket. Subsequently, the Commission granted the petitions to intervene of Utah Rural Telecom Association ("URTA") and Salt Lake Community Action Program ("SLCAP").

On September 14, 2012, Q Link filed testimony in support of the Petition. On November 9, 2012, Q Link filed a Stipulation and Settlement Agreement ("Settlement") signed by Q Link, the Division, and the Office. Thereafter, the Commission suspended the schedule ordered previously and noticed a hearing on the Settlement which was held December 4, 2012. At the hearing, each party to the Settlement offered testimony supporting the approval of the Settlement as just and reasonable and in the public interest. No party opposes the Settlement.

¹ See 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.*

DISCUSSION, FINDINGS, AND CONCLUSIONS

Longstanding FCC orders provide that only ETCs designated by a state public utilities commission shall receive federal universal service fund (“USF”) support.² Under 47 U.S.C. § 214(e), a state public utilities commission shall, upon its own motion or upon request, designate a common carrier that meets the requirements set forth by the FCC as an ETC for a service area designated by such commission. The FCC defines a service area as a geographic area established by a state public utilities commission for the purpose of determining universal service obligations and support mechanisms. As noted in the Settlement, to be designated as a federal ETC, a carrier must: (1) be a common carrier; (2) demonstrate an intent and ability to provision the supported services set forth in 47 C.F.R. § 54.101(a) throughout its designated service areas; and (3) demonstrate an intent and ability to advertise its universal service offerings and the charges therefore, using media of general distribution. The FCC's supported services set forth in 47 C.F.R. § 54.101(a) are:

- a. voice grade access to the public switched telephone network or its functional equivalent;
- b. minutes of use for local service provided at no additional charge to end users;
- c. access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems; and

² See the FCC’s Universal Service Report and Order, issued May 8, 1997, 12 FCC Rcd 8776, implementing the Communications Act of 1934, as amended by the Telecommunications Act of 1996.

d. toll limitation services to qualifying low-income consumers.

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

According to the Settlement, Q Link, the Division, and the Office engaged in settlement discussions in an attempt to resolve their differences regarding issues raised by Q Link's Petition.³ Based on these discussions and their review of all discovery, testimony and exhibits submitted, the parties to the Settlement reached agreement on the issues raised in this docket.

The Settlement states Q Link seeks ETC status for the limited purpose of providing universal service low-income Lifeline service in Utah. The Settlement further states Q Link will not be seeking universal service high-cost support in its service area, nor will Q Link seek to provide universal service low-income Link Up service. The parties to the Settlement state Q Link's Lifeline program will further the statutory goal that basic service be available and affordable to all citizens of the state of Utah. Q Link's Lifeline program will be an additional service option for low-income consumers. The parties to the Settlement testify this new option will benefit consumers and is in the public interest.

As stated in the Settlement and in testimony, the parties to the Settlement agree that designating Q Link as an ETC in the wire centers set forth in Exhibit 6 to the Petition will serve the public interest, convenience and necessity, as defined in 47 U.S.C. § 214(e)(2). The parties to the Settlement agree Q Link will provide each of the supported services set forth at 47 C.F.R. § 54.101(a), and that Q Link has shown an intent and ability to offer those services

³ The Settlement represents URTA and SLCAP were invited to participate in these discussions.

throughout its requested service areas. Under the Settlement's terms, Q Link will make available three different Lifeline plans, equivalent to 68, 125, or 250 free minutes. Q Link will make these plans available to qualifying low-income consumers. Q Link will not offer Link Up service to qualifying low-income consumers. Q Link agrees that it will seek the \$9.25 federal reimbursement from the Universal Service Administrative Company ("USAC").

Based on the Settlement and the unopposed testimony and other evidence presented in its support, the Commission finds it to be just and reasonable, and in the public interest. As recommended by the parties to the Settlement, the following additional requirements apply to Q Link in providing its ETC Lifeline universal service offerings in Utah:

- A. Q Link shall use a Utah-specific fact sheet that provides customers concise and complete information about the services they will receive. Initially, such fact sheet shall be substantially the same as Attachment 1 to the Settlement. Q Link shall promptly update the fact sheet anytime it changes its Utah Lifeline program offerings.
- B. This order does not grant Q Link authority to seek support from the Utah USF, nor has Q Link requested such authority. Q Link shall not seek any Utah USF funding without first receiving Commission approval of an application for such funding.
- C. Q Link shall comply with all state service quality and consumer protection requirements.

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- D. Approval of Q Link's Petition is conditioned upon the verified payment of all applicable state and local regulatory fees, including, but not limited to, universal service fees, emergency services fees, and relay services fees.
- E. Q Link agrees to adopt any changes to the Lifeline eligibility certification and verification processes developed within Docket No. 10-2528-01.
- F. So long as the ETC designation conferred herein is in effect, Q Link shall at all times meet the requirements for federal ETC designation.
- G. Upon implementing any changes to its Lifeline offerings, Q Link shall timely file a notice with the Division and the Office describing the changes.

ORDER

The Settlement is approved as just and reasonable, and in the public interest. The Petition for ETC designation for the limited purpose of providing universal service low-income Lifeline service in Utah is granted, subject to the terms of the Settlement, and the other conditions and requirements set forth in this Report and Order. The order scheduling additional proceedings in this docket, previously suspended, is hereby vacated.

DATED at Salt Lake City, Utah this 14th day of December, 2012.

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
D#240189

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of December, 2012, a true and correct copy of the foregoing Report and Order was served upon the following as indicated below:

By Electronic Mail:

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Q Link Wireless LLC

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