

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of Global)
Connection Inc. of America dba STAND) DOCKET NO. 13-2432-01
UP WIRELESS for Designation as an)
Eligible Telecommunications Carrier in the) ORDER APPROVING SETTLEMENT
State of Utah) STIPULATION AND APPLICATION FOR
) DESIGNATION AS AN ELIGIBLE
) TELECOMMUNICATIONS CARRIER
)

ISSUED: March 13, 2014

BACKGROUND

On October 1, 2013, Global Connection Inc. of America dba STAND UP WIRELESS (“Stand Up Wireless”) filed an application for designation as an eligible telecommunications carrier.¹ On October 4, 2013, the Commission issued a notice of filing and comment period, requesting comments be filed no later than November 4, 2013, on the above application.² On October 21, 2013, the Division of Public Utilities (“Division”) filed a memorandum recommending the Commission establish a schedule for filing of testimony, intervention of interested parties, and a hearing date for this docket.³ No other comments were filed.

On October 29, 2013, the Commission held a scheduling conference⁴ and set the schedule for this docket.⁵ On November 12, 2013, Stand Up Wireless filed its direct testimony.⁶

¹ See Global Connection Inc. of America dba STAND UP WIRELESS - Petition for Designation as an Eligible Telecommunications Carrier in the State of Utah, filed October 1, 2013.

² See Notice of Filing and Comment Period, issued October 4, 2013.

³ See Division Memorandum, filed October 21, 2013.

⁴ See Notice of Scheduling Conference, issued October 22, 2013.

⁵ See Scheduling Order and Notice of Hearing, issued October 30, 2013. The scheduling order set December 13, 2013, as the deadline for intervention. See *id.* However, no requests for intervention were filed.

⁶ See Global Connection Inc. of America dba Stand Up Wireless’ Submission of Direct Testimony and Exhibits, filed November 12, 2013.

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On January 13, 2014, the Division filed a request to suspend the testimony in this docket, stating the parties held a settlement conference on January 13, 2014, and a stipulation will be forthcoming.⁷

On February 7, 2014, Stand Up Wireless filed an executed settlement stipulation (“Settlement Stipulation” or “Stipulation”), a copy which is attached hereto as Exhibit #1.⁸ The Settlement Stipulation clarifies that “Stand Up Wireless seeks ETC designation for the limited purpose of providing universal service low-income Lifeline service in Utah. Stand Up Wireless will not be seeking universal service high-cost support in its service area, nor will Stand Up Wireless seek to provide universal service low-income Link Up service.”⁹ “Stand Up Wireless is not currently seeking any Utah USF funding. If Stand Up Wireless seeks Utah USF funding in the future, Stand Up Wireless will file a separate application requesting such state support.”¹⁰ The Settlement Stipulation is signed by counsel for Stand Up Wireless, the Division, and the Office of Consumer Services (“Office”).

On February 19, 2014, the Commission held a hearing on the Stipulation. At the hearing, Lance Steinhart, counsel for Stand Up Wireless appeared telephonically, along with Heather Kirby, Paralegal, and Ed Smith for Global Connection. Justin Jetter, assistant attorney general, appeared on behalf of the Division and was accompanied by Casey J. Coleman. Brent Coleman, assistant attorney general, appeared on behalf of the Office and was accompanied by

⁷ See Division Memorandum, filed January 13, 2014.

⁸ See attached Exhibit #1.

⁹ Id., at 3-4, ¶ 2.

¹⁰ Id., at 5, ¶¶ 11(B)-(C).

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Cheryl Murray. Mr. Smith, chief financial officer for Global Connection, testified the Stipulation is just and reasonable in result.¹¹ Mr. Coleman, utility technical consultant with the Division, testified the Stipulation is just, reasonable, and in the public interest.¹² Ms. Murray, utility analyst with the Office, testified the Settlement Stipulation is in the public interest and recommended Commission approval of it.¹³ “[A]ll of the [p]arties [to the Stipulation] agree that this Stipulation as a whole is just and reasonable in result and in the public interest.”¹⁴ No one opposed the Stipulation.

FINDINGS, CONCLUSIONS AND ORDER

As set forth by statute and as previously noted by the Commission in other orders, settlements of matters before the Commission are encouraged at any stage of the proceedings.¹⁵ The Commission may approve a settlement proposal after considering the interests of the public and other affected persons, if it finds the settlement proposal in the public interest.¹⁶ With this background in mind, and based on our consideration of the evidence before us, the testimony and recommendations of the parties, and the applicable legal standards, we find approval of the Settlement Stipulation to be in the public interest. Accordingly, the Commission approves the Stipulation.

¹¹ See Transcript of Hearing at 7, lines 11-14, February 19, 2014. Mr. Steinhart, although not testifying, also supported that the Stipulation is just, reasonable, and in the public interest. See *id.* at 8, lines 4-7.

¹² See *id.* at 9, lines 11-14.

¹³ See *id.* at 12, lines 3-5.

¹⁴ Exhibit #1 at 6, ¶ 2.

¹⁵ See Utah Code Ann. § 54-7-1 (LexisNexis 2010). See also *In the Matter of the Application of Rocky Mountain Power*, Docket No. 11-035-200 (Report and Order; Sept. 19, 2012), at 26.

¹⁶ See Utah Code Ann. § 54-7-1(2)(a). See also *Utah Dept. of Admin. Services v. Public Service Comm’n*, 658 P.2d 601, 613-14 (Utah 1983).

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Further, we approve Stand Up Wireless' application for designation as an eligible telecommunications carrier, subject to the terms of the Stipulation.

Stand Up Wireless is subject to all applicable Utah administrative rules, as set forth in the Utah Admin. Code. We note the Commission has recently opened a docket (Docket No. 14-999-06)¹⁷ to review and modify the Lifeline program rules.

DATED at Salt Lake City, Utah, this 13th day of March, 2014.

/s/ Melanie A. Reif
Administrative Law Judge

Approved and confirmed this 13th day of March, 2014, as the Report and Order of the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#251440

¹⁷ This docket is available at <http://www.psc.utah.gov/utilities/misc/miscindx/1499906indx.html>.

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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.

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CERTIFICATE OF SERVICE

I CERTIFY that on the 13th day of March, 2014, a true and correct copy of the foregoing, was served upon the following as indicated below:

By E-Mail:

Lance J.M. Steinhart (lsteinhart@telecomcounsel.com)

Lance J.M. Steinhart, P.C.

Counsel for Global Connection Inc. of America dba STAND UP WIRELESS

Telecom Service List

Patricia Schmid (pschmid@utah.gov)

Justin Jetter (jjetter@utah.gov)

Brent Coleman (brentcoleman@utah.gov)

Utah Assistant Attorneys General

By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Flr.
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Office of Consumer Services
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Salt Lake City, Utah 84111

Administrative Assistant

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Exhibit #1

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

_____)	
In the Matter of the Petition of Global Connection)	
Inc. of America dba STAND UP WIRELESS)	
)	Docket No. 13-2432-01
for Designation as an Eligible Telecommunications)	
Carrier in the State of Utah)	
_____)	

STIPULATION AND SETTLEMENT AGREEMENT

Global Connection Inc. of America dba STAND UP WIRELESS (“Stand Up Wireless” or the “Company”), the Division of Public Utilities (“DPU”), and the Office of Consumer Services (“OCS”) (collectively the "Stipulating Parties" or the “Parties”), through their undersigned representatives, enter into this Stipulation and Settlement Agreement ("Stipulation") regarding the Petition filed by Stand Up Wireless in the instant docket. The Parties submit this Stipulation for approval by the Public Service Commission of Utah (the “Commission” or the “PSC”) pursuant to the Commission’s Rules of Practice and Procedure, r.746-100-10.

PRELIMINARY STATEMENT

1. On May 8, 1997, the Federal Communications Commission ("FCC") issued its Universal Service Report and Order, 12 FCC Rcd 8776 (1997) ("Universal Service Order") implementing the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Federal Act"). The FCC provided further guidance on Eligible Telecommunications Carrier (“ETC”) designation in its Lifeline and Link Up Reform Order released February 6, 2012, Federal-State Joint Board on Universal Service, 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 12-11.¹⁸

2. The Universal Service Order provides that only ETCs designated by a state public utilities commission (“State Commission”) shall receive federal universal service support. Under 47 U.S.C. § 214(e), a State 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 the State Commission. The FCC defines a service area as a geographic area established by a State Commission for the purpose of determining universal service obligations and support mechanisms.

3. To be designated as a federal ETC under the Federal Act, a carrier must: (1) be a common carrier; (2) demonstrate an intent and ability to provide 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. 47 U.S.C. § 214(e); Universal Service Order, 12 FCC Rcd at 8791.

4. 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

¹⁸ See *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 and Link Up Reform Order”).

local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and

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

5. 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.

6. On October 1, 2013, Stand Up Wireless filed a Petition seeking Designation as an ETC in the State of Utah ("Petition"), Docket Number 13-2432-01. Stand Up Wireless seeks designation throughout Sprint PCS' and Verizon Wireless' coverage area, as identified by wire centers in Exhibit 5 to the Petition.

7. Stand Up Wireless, the DPU, and the OCS engaged in settlement discussions in an attempt to resolve any differences regarding issues raised by the Petition.

8. The Parties have now reached agreement on the issues raised in this docket, as set forth herein. The Parties agree this Stipulation should have no legal effect outside of the instant docket.

AGREEMENT

WHEREFORE, based on their review of all discovery, testimony and exhibits submitted and upon their settlement discussions, the Parties hereby stipulate and agree as follows:

1. Stand Up Wireless is a wireless reseller of the Sprint PCS and Verizon Wireless networks.

2. Stand Up Wireless seeks ETC designation for the limited purpose of providing universal service low-income Lifeline service in Utah. Stand Up Wireless will not be seeking

universal service high-cost support in its service area, nor will Stand Up Wireless seek to provide universal service low-income Link Up service.

3. Stand Up Wireless' Lifeline program furthers the statutory goal that basic service be available and affordable to all citizens of the state of Utah.

4. Stand Up Wireless' Lifeline product offering will offer an additional choice of providers offering service for low-income consumers, which represents a benefit for those consumers and is in the public interest.

5. Stand Up Wireless is a commercial mobile radio service ("CMRS") provider, and a common carrier as defined by 47 U.S.C. § 332(c)(1)(A).

6. Stand Up Wireless provides each of the supported services set forth in 47 C.F.R. § 54.101(a) and it has shown an intent and ability to offer those services once designated throughout its requested service areas.¹⁹

7. Stand Up Wireless submitted its Compliance Plan to the FCC outlining the measures it will take to implement the conditions imposed by the FCC.²⁰ The FCC approved the Company's Compliance Plan, as amended, on May 25, 2012.

8. Stand Up Wireless will make available Lifeline service to qualifying low-income consumers. Stand Up Wireless will not offer Link Up to qualifying low-income consumers.

9. Stand Up Wireless shall make available two (2) different Lifeline plans at no cost, equivalent to 100 free voice minutes and 100 free text messages, or 250 free minutes to be used interchangeably for voice and text, in addition to allowing consumers to alternatively apply their

¹⁹ With respect to toll limitation, in its Lifeline and Link Up Reform Order, the FCC stated that toll limitation would no longer be deemed a supported service in the case of ETCs. See Lifeline and Link Up Reform Order at ¶¶ 49 and 367. Nonetheless, the Company's offerings inherently allow Lifeline subscribers to control their usage because of the prepaid nature of Stand Up Wireless' Lifeline plans. Stand Up Wireless' service is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same. The nature of Stand Up Wireless' service and plans act as a toll limitation. Stand Up Wireless will not seek reimbursement for toll limitation service.

²⁰ See Lifeline and Link Up Reform Order.

Lifeline discount to the Company's retail rate plans (currently a 500-Minute, 1000-Minute, or Unlimited Minute plan). Stand Up Wireless agrees that it will seek the \$9.25 federal reimbursement from the Universal Service Administrative Company ("USAC").

10. The Parties stipulate and agree that designating Stand Up Wireless as an ETC in the wire centers set forth in Exhibit 5 to the Petition serves the public interest, convenience and necessity, as defined in 47 U.S.C. § 214(e)(2).

11. The Parties stipulate and agree that Stand Up Wireless shall provide its ETC Lifeline universal service offerings in Utah pursuant to this Stipulation (including attachments). The Parties recommend that Stand Up Wireless' provision of its universal service offering as an ETC be governed by the following additional requirements:

- A. Stand Up Wireless will use a Utah-specific fact sheet that provides customers concise and complete information about the services they will receive. Such fact sheet is attached hereto as Attachment 1. Stand Up Wireless agrees to promptly update the fact sheet anytime it changes its Utah Lifeline program offerings.
- B. Stand Up Wireless is not currently seeking any Utah USF funding.
- C. If Stand Up Wireless seeks Utah USF funding in the future, Stand Up Wireless will file a separate application requesting such state support.
- D. Stand Up Wireless will comply with all state service quality and consumer protection requirements.
- E. Stand Up Wireless acknowledges that approval of the Petition will be conditioned upon the verified payment of all applicable state and local regulatory fees, including, but not limited to, universal service fees, emergency services, and relay services.

- F. Stand Up Wireless agrees to adopt any changes to the certification and verification process developed within Docket No. 10-2528-01.
- G. Stand Up Wireless meets the requirements for federal ETC designation.
- H. Upon implementing any changes to its Lifeline offerings, Stand Up Wireless will timely file a notice with the DPU and OCS describing the changed plans.

GENERAL PROVISIONS

1. The Parties stipulate to the admission into evidence in this docket of Stand Up Wireless' Petition and pre-filed Testimony and Exhibits. This stipulation to the admission of the Testimony does not represent an agreement by the Parties as to any positions taken in such Testimony.

2. Not all Parties agree that each aspect of this Stipulation is warranted or supportable in isolation. Utah Code Ann. § 54-7-1 (2013) authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. While the Parties are not able to agree that each specific component of this Stipulation is just and reasonable in isolation, all of the Parties agree that this Stipulation as a whole is just and reasonable in result and in the public interest.

3. All negotiations related to this Stipulation are confidential, and no Party shall be bound by any position asserted in negotiations. Except as expressly provided in this Stipulation, and in accordance with Utah Admin. Code r.746-100-10.F.5, neither the execution of this Stipulation nor the order adopting it shall be deemed to constitute an admission or acknowledgment by any Party of the validity or invalidity of any principle; nor shall they be construed to constitute the basis of an estoppel or waiver by any Party; nor shall

they be introduced or used as evidence for any other purpose in a future proceeding by any Party except in a proceeding to enforce this Stipulation.

4. The Parties agree that no part of this Stipulation or the formulae and methods used in developing the same or a Commission order approving the same shall in any manner be argued or considered as precedential in any future case except with regard to issues expressly called-out and resolved by this Stipulation. This Stipulation does not resolve and does not provide any inferences regarding, and the Parties are free to take any position with respect to, any issues not specifically called-out and settled herein.

5. The Parties request that the Commission hold a hearing on this Stipulation. The Parties shall support the Commission's approval of this Stipulation. As applied to the DPU and the OCS, the explanation and support shall be consistent with their statutory authority and responsibility.

6. The Parties agree that if any person challenges the approval of this Stipulation or requests rehearing or reconsideration of any order of the Commission approving this Stipulation, each Party will use its best efforts to support the terms and conditions of this Stipulation. As applied to the DPU and the OCS, the phrase "use its best efforts" means that they shall do so in a manner consistent with their statutory authority and responsibility. In the event any person seeks judicial review of a Commission order approving this Stipulation, no Party shall take a position in that judicial review proceeding in opposition to the Stipulation.

7. Except with regard to the obligations of the Parties under the four (4) immediately preceding paragraphs of this Stipulation, this Stipulation shall not be final and binding on the Parties until it has been approved without material change or condition by the Commission.

8. This Stipulation is an integrated whole, and any Party may withdraw from it if it is not approved without material change or condition by the Commission or if the Commission's approval is rejected or materially conditioned by a reviewing court. If the Commission rejects any part of this Stipulation or imposes any material change or condition on approval of this Stipulation or if the Commission's approval of this Stipulation is rejected or materially conditioned by a reviewing court, the Parties agree to meet and discuss the applicable Commission or court order within five (5) business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, any Party retains the right to seek additional procedures before the Commission, including presentation of testimony and cross-examination of witnesses, with respect to issues resolved by the Stipulation, and no party shall be bound or prejudiced by the terms and conditions of the Stipulation.

9. This Stipulation may be executed by individual Parties through two (2) or more separate, conformed copies, the aggregate of which will be considered as an integrated instrument.

WHEREFORE, the Parties respectfully submit this Stipulation and Settlement Agreement for approval by the Commission and request that the Commission grant such approval.

Dated this ___ day of _____, 2014.

**FOR Global Connection Inc. of America
dba STAND UP WIRELESS:**

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ATTACHMENT 1

Utah-specific Fact Sheet

IMPORTANT INFORMATION ABOUT YOUR STAND UP WIRELESS LIFELINE SERVICE

STAND UP WIRELESS Lifeline Service is brought to you by Global Connection Inc. of America and includes the provision of a free E911 compliant wireless handset. This government sponsored Lifeline telephone service is subject to continuing eligibility and annual recertification. Only one Lifeline subsidy per household is allowed; your participation in this program requires that you do not receive Lifeline subsidy on any other phone, either wireless or wireline. If you no longer receive the low-income assistance or your income exceeds the qualifying amount, you must notify STAND UP WIRELESS. As a recipient of Lifeline service you may not give away or sell this phone.

- Your enrollment in the program will be for 12 months. (Unless your eligibility status changes, you select a different carrier, or there is no activity on your phone for 60 consecutive days.)
- You will receive a minimum of 100 or 250 free minutes each month, or up to unlimited minutes at a discounted rate, depending on the Plan Option you choose. This offer may increase but will not decrease. Stand Up Wireless will inform you of any changes. (You must follow the procedures described in the welcome kit to receive free minutes and elect a Plan Option.)
- If you choose Plan Option 1 (StandUp 100), unused free minutes will carry over to the following month.*
- Minutes will be charged for both outgoing and incoming calls.
 - Note: Calls to directory assistance and time you are on hold will also count as minutes used.
 - Emergency calls to 911 will not count against your minutes.
 - Calls to Stand Up Wireless customer service will not count against your minutes.
 - Partial minute usage is rounded up.
 - Text messages are decremented from their own pool of minutes, separately from voice minutes.**
- To contact Stand Up Wireless customer service, please dial 611 from your Stand Up Wireless handset or dial Stand Up Wireless' toll-free number 1-800-554-4441. You can also contact Stand Up Wireless customer service representatives via the "Contact Us" page on Stand Up Wireless' website. www.standupwireless.com.
- Emergency calls to 911 CAN be made even if you have NO remaining minutes.
- Additional Credits can be added by calling Stand Up Wireless customer service, via Stand Up Wireless' website, or at any authorized Stand Up Wireless payment center. Each credit provides one (1) minute of airtime or one (1) SMS text message.
 - Purchase 40 credits for \$5.00
 - Purchase 100 credits for \$10.00
 - Purchase 250 credits for \$20.00
 - Purchase 500 credits for \$30.00
 - Purchase 1000 credits for \$50.00
- At the end of 12 months Stand Up Wireless will contact you to verify that you are still eligible for Lifeline support to continue to receive free minutes monthly.
- If you have purchased additional airtime and have remaining minutes and days of service at the end of your Lifeline eligibility, you will be subject to the terms and conditions of Stand Up Wireless' retail wireless services.

YOU ARE ENCOURAGED TO READ YOUR WELCOME KIT CAREFULLY FOR COMPLETE DETAILS REGARDING YOUR STAND UP WIRELESS LIFELINE SERVICE.

* If you elect any other Plan Option, then unused minutes do not carry over.

** On the StandUp 250 Plan (Plan Option 2) and purchased Additional Minutes, text messages are deducted from the same pool as voice minutes and are charged at one minute per incoming or outgoing text.