

**In the Matter Of:**

Docket No. 17-2597-01

**HEARING DOCKET NO. 17-2597-01**

*November 14, 2017*

*Job Number: 402120*

1 BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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3 In the Matter of the Petition of Docket No. 17-2597-01  
4 Assist Wireless, Inc. for  
5 Designation as an Eligible  
6 Telecommunications Carrier for the  
7 Purpose of Offering Lifeline Service  
8 on a Wireless Basis

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9 HEARING PROCEEDINGS

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12 TAKEN AT: Utah Public Service Commission  
13 4th Floor  
14 160 East 300 South  
15 Salt Lake City, Utah

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18 DATE: Tuesday, November 14, 2017

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21 TIME: 9:00 a.m.

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24 REPORTER: Mary R. Honigman, R.P.R.

25 Job No. 402120

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APPEARANCES

PRESIDING OFFICER:  
Michael Hammer

FOR THE DIVISION OF PUBLIC UTILITIES:  
Justin C. Jetter  
160 East 300 South, Fifth Floor  
Salt Lake City, Utah 84114

FOR THE OFFICE OF CONSUMER SERVICE:  
Robert Moore  
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Salt Lake City, Utah 84114

FOR ASSIST WIRELESS, LLC (via telephone):  
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## PROCEEDINGS

OFFICER HAMMER: Good morning, everyone. This is the time and place noticed for the hearing in the Petition of Assist Wireless, LLC for Designation as an Eligible Telecommunications Carrier in the State of Utah, Commission Docket No. 17-2597-01. My name is Michael Hammer and I'm the Commission's designated presiding officer for this docket. Let's go ahead and take appearances, please. It appears that everyone for the Company is with us by telephone; is that correct?

MR. FOSTER: Yes. This is Mark Foster with Foster Law in Austin, Texas, representing Assist Wireless, LLC. With me, also on the teleconference call is Byron Young. He is the president of Assist Wireless.

OFFICER HAMMER: Thank you.

MR. JETTER: Good morning. I'm Justin Jetter with the Utah Attorney General's Office and I'm here today representing the Utah Division of Public Utilities. With me at counsel table, for those on the phone, is Casey Coleman with the Division.

MR. MOORE: I'm Robert Moore with the

1 Utah Attorney General's Office, representing the  
2 Office of Consumer Service. With me is  
3 Cheryl Murray of the Office.

4 OFFICER HAMMER: Thank you. Are  
5 there any preliminary matters before we begin?

6 MR. JETTER: Nothing from the  
7 Division.

8 MR. FOSTER: I don't have any.

9 OFFICER HAMMER: I suppose the  
10 parties are okay with the Company's witness  
11 testifying by telephone today?

12 MR. JETTER: Yes, we are.

13 MR. MOORE: We have no objections.

14 OFFICER HAMMER: All right, then.

15 Mr. Foster, please call your first witness.

16 MR. FOSTER: I'll call Byron Young.

17 Mr. Young, will you state your name and position,  
18 please?

19 OFFICER HAMMER: Before you proceed,  
20 Mr. Young, do you swear to tell the truth today?

21 THE WITNESS: Yes.

22 BYRON YOUNG,  
23 having been first duly sworn to tell the truth, was  
24 examined and testified as follows:

25 OFFICER HAMMER: Thank you. I'm

1     sorry, Mr. Foster.    Go ahead.

2     BY MR. FOSTER:

3           Q     And your name and position, sir?

4           A     Byron Young, CEO.

5           Q     And Mr. Young, are you familiar with the  
6     application that your company has made in this  
7     docket to be designated as an eligible  
8     telecommunications carrier?

9           A     Yes.

10          Q     And is the information that the Company  
11     presented in this petition true and correct?

12          A     Yes.

13          Q     And is Assist Wireless an experienced  
14     provider of Lifeline phone service?

15          A     Yes.

16          Q     In what states is the Company presently  
17     providing Lifeline service?

18          A     California and Oklahoma.

19          Q     All right.   And are you willing and able  
20     to abide by the rules of the Public Service  
21     Commission of Utah with respect to provision of  
22     Lifeline service in Utah?

23          A     Yes.

24          Q     And likewise, will you abide by the rules  
25     and regulations of the Federal Communications

1 Commission with respect to provision of Lifeline  
2 service to Utah residents?

3 A Yes.

4 Q And are you also familiar with a  
5 stipulation and settlement agreement that's been  
6 executed in this docket?

7 A Yes, I am.

8 Q And is the information presented therein  
9 true and correct and agreeable to your company?

10 A Yes.

11 Q And will you abide by the provisions of  
12 the stipulation settlement agreement?

13 A Yes.

14 Q Do you believe that the terms and  
15 conditions of the stipulation settlement agreement  
16 are in the public interest?

17 A Yes, I do.

18 MR. FOSTER: Your Honor, I don't have  
19 any more questions for Mr. Young. I'm happy to  
20 hinder him for any cross-examination or clarifying  
21 questions that might be needed, and if there's  
22 anything else that you would like me to submit or  
23 ask Mr. Young, I'm happy to do so. Also, if it's  
24 needed for your evidentiary record, we would offer  
25 the contents of the application and all attachments



1     therein, as well as the stipulation settlement  
2     agreement into evidence at this time.

3                     OFFICER HAMMER: I see no objection.  
4     They're admitted. Mr. Jetter, any  
5     cross-examination?

6                     MR. JETTER: I have no questions.  
7     Thank you.

8                     OFFICER HAMMER: Mr. Moore?

9                     MR. MOORE: No questions. Thank you.

10                    OFFICER HAMMER: All right,  
11     Mr. Foster. You have no other witnesses, correct?

12                    MR. FOSTER: That's correct.

13                    OFFICER HAMMER: Okay. Mr. Jetter?

14                    MR. JETTER: Thank you. The Division  
15     would like to call and have sworn in  
16     Mr. Casey Coleman.

17                    CASEY J. COLEMAN,  
18     having been first duly sworn to tell the truth, was  
19                    examined and testified as follows:

20     BY MR. JETTER:

21                    **Q     Mr. Coleman, will you please state your**  
22     **name and occupation for the record?**

23                    A     My name is Casey J. Coleman. I'm a  
24     utility technical consultant for the State of Utah  
25     and the Division of Public Utilities.

1           Q     Thank you. In the course of your  
2     employment, have you had the opportunity to review  
3     the application filed by the applicant in this  
4     docket, as well as the settlement stipulation that  
5     was filed by the parties?

6           A     Yes.

7           Q     Do you believe that approval by the  
8     Commission of the settlement stipulation would be  
9     just, reasonable, and in the public interest?

10          A     Yes.

11          Q     Thank you.

12                         MR. JETTER: I have no further  
13     questions and Mr. Coleman is available for  
14     cross-examination.

15                         OFFICER HAMMER: Mr. Foster, any  
16     questions?

17                         MR. FOSTER: No questions.

18                         OFFICER HAMMER: Mr. Moore?

19                         MR. MOORE: No questions.

20                         OFFICER HAMMER: Mr. Jetter, you have  
21     no other witnesses?

22                         MR. JETTER: I have no other  
23     witnesses.

24                         OFFICER HAMMER: Mr. Moore?

25                         MR. MOORE: The Office would call

1 Cheryl Murray.

2 CHERYL MURRAY,  
3 having been first duly sworn to tell the truth, was  
4 examined and testified as follows:

5 MR. MOORE: Please state your name  
6 and who you represent in this docket.

7 THE WITNESS: My name is  
8 Cheryl Murray. I represent the Office of Consumer  
9 Services.

10 **Q Did you participate in the settlement**  
11 **negotiation which resulted in the stipulation being**  
12 **considered today?**

13 A Yes, I did, on behalf of the Office.

14 **Q Is the application of Assist Wireless**  
15 **seeking Utah USF funding?**

16 A Yes, however, as noted in the stipulation  
17 at page 7B, the Commission bifurcated this docket so  
18 that the immediate proceeding will adjudicate Assist  
19 Wireless's request for designation as an eligible  
20 telecommunications provider for the purpose of  
21 receiving federal Lifeline support for its Utah  
22 customers. The request for Utah USF will be  
23 adjudicated after the Commission makes rules  
24 governing wireless providers' eligibility for state  
25 Lifeline support.

1           **Q     Have you prepared testimony regarding the**  
2           **stipulation?**

3           A     Yes.

4           **Q     Please proceed.**

5           A     The Office of Consumer Services is  
6           responsible for assessing the impact of utility rate  
7           changes and regulatory actions upon residential and  
8           commercial customers. It is with that  
9           responsibility in mind that we have evaluated Assist  
10          Wireless's request for limited designation as an ETC  
11          for the purpose of providing Lifeline service to  
12          qualified residential customers in Utah.

13                   The Office acknowledges that low-income  
14          persons need to have access to telephone service  
15          and, in general, supports the ability to receive  
16          that service through wireless telephone service. We  
17          considered both the benefits provided to low-income  
18          customers through wireless service and the money  
19          collected from telecommunications customers  
20          necessary to fund the Lifeline program in our  
21          assessment. We have reviewed the testimony, the  
22          exhibits, and we have also issued some data requests  
23          and had discussions with Company representatives in  
24          coming to our conclusion here. Subsequent to our  
25          review of the information, the parties entered into

1 the stipulation and settlement agreement that's  
2 being presented today.

3 In the Office's judgment, the settlement  
4 is just and reasonable in result, and in the public  
5 interest, and should be approved by the Commission.  
6 That concludes my testimony.

7 MR. MOORE: Ms. Murray is available  
8 for cross.

9 OFFICER HAMMER: Mr. Foster, any  
10 questions?

11 MR. FOSTER: No questions, Your  
12 Honor.

13 OFFICER HAMMER: Mr. Jetter?

14 MR. JETTER: I have no questions.  
15 Thank you.

16 OFFICER HAMMER: Mr. Moore, anything  
17 else?

18 MR. MOORE: No, sir.

19 OFFICER HAMMER: Before we adjourn, I  
20 suppose I'll ask the parties how we envision the  
21 second stage of this matter proceeding. In other  
22 words, would you like me to notice a scheduling  
23 conference at some future date? I don't know if  
24 there's still language on our docket indefinitely.

25 MR. FOSTER: Honestly, Your Honor,

1 I'm a little unfamiliar with your processes there in  
2 Utah. Could you perhaps let me know, what have you  
3 done in previous cases?

4 OFFICER HAMMER: I think this  
5 situation is a little unique. Let me ask Mr. Jetter  
6 and Mr. Moore if they have any recommendations.

7 MR. JETTER: I think maybe there may  
8 be two options that we could do here. One would be  
9 since we don't know -- I'm not familiar enough with  
10 the docket to know if there was a final date --  
11 dates regarding the conclusion of the wireless  
12 Lifeline rule. I don't think we have a known  
13 endpoint of the process that needs to be completed  
14 before we go forward with the evaluation of Lifeline  
15 support for Assist Wireless. At least, in my  
16 opinion, the best way to do that might be to  
17 withdraw the request or have the Company withdraw  
18 that request and then file a new application pending  
19 after the conclusion of setting the parameters which  
20 Lifeline support would be available to wireless  
21 providers in Utah.

22 And the alternative, the only other  
23 way that I think it might work, would be to have  
24 some sort of an order that would set a scheduling  
25 conference a certain time after the conclusion of

1 that, but since we don't know when that is, I don't  
2 know if we can set a date for it. I think the  
3 trouble is suspending it indefinitely, which it  
4 sounds like that's not what the Commission prefers  
5 to do. I think the best option would actually be to  
6 have a separate docket with a new application which  
7 would be focused on whatever the rules would be.

8 OFFICER HAMMER: Mr. Moore, anything?

9 MR. MOORE: We would concur with the  
10 Division.

11 MR. FOSTER: Your Honor, this is  
12 Mark Foster. I hate to interrupt but I'm going to  
13 have to confess that the sound quality is so poor I  
14 can barely make out anything you all are saying. I  
15 didn't want to interrupt too much, but if there's  
16 something that can be done or maybe at the end of  
17 your discussions, just kind of advise me on the  
18 bottom line, off of the speaker phone, that would be  
19 fantastic.

20 OFFICER HAMMER: Sure. Can you hear  
21 me, Mr. Foster?

22 MR. FOSTER: Yes, I hear you just  
23 fine. Thanks.

24 OFFICER HAMMER: So I asked the  
25 Division and the Office's counsel for input as to

1 how they suggested proceeding. Mr. Jetter, correct  
2 me if I'm wrong, but I understood the recommendation  
3 to be that either the Company withdraw its  
4 application for Utah USF and refile at a later date  
5 once rules are in place to evaluate that request or  
6 we could perhaps stay this case pending further  
7 action from the Company. I suppose a third  
8 alternative would be to simply notice up a  
9 scheduling conference at some future date, though we  
10 don't know whether rules will be in place at that  
11 date to continue the adjudication.

12 MR. FOSTER: I think I know how we  
13 would like to proceed, would be to move ahead with  
14 this request for the federal ETC designation and we  
15 could withdraw our request for the -- to be  
16 reimbursed from the Utah fund and refile that when  
17 you have finalized the rules.

18 OFFICER HAMMER: Are you making a  
19 verbal motion to do that at this time?

20 MR. FOSTER: Yes, Your Honor, I am.

21 OFFICER HAMMER: Then the order on  
22 the ETC designation will also include an order  
23 approving the request to withdraw the other  
24 application, pending further action from the  
25 Company.



1 MR. FOSTER: And if I could ask those  
2 present, if anyone can give me a time estimate for  
3 when they think the Commission will have finalized  
4 the new rules?

5 OFFICER HAMMER: I suppose I'm in the  
6 best position to do that, and unfortunately it's not  
7 a good one. I'm sorry I don't have an answer for  
8 you, but I can look into it and speak with the  
9 Commissioners and see if there's any way we can  
10 apprise the parties of an estimate. I'm not sure  
11 whether they're in a position to do so or not.

12 MR. FOSTER: That would be very  
13 appreciated, and I'll calendar in my system to  
14 follow up with those there that I've been working  
15 with in the Commission.

16 OFFICER HAMMER: Excellent. Thank  
17 you, everyone. We're adjourned.

18 (The hearing concluded at 9:15 a.m.)  
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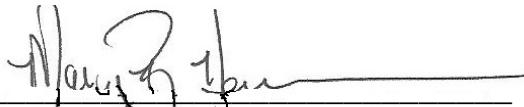
REPORTER'S CERTIFICATE

STATE OF UTAH )  
COUNTY OF SUMMIT )

I, Mary R. Honigman, a Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the witnesses were placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I have subscribed my name on this 15th day of November, 2017.

  
\_\_\_\_\_  
Mary R. Honigman  
Registered Professional Reporter #972887

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