



Agenda Date: 2/11/15
Agenda Item: 4A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE APPLICATION OF T-MOBILE) ORDER
NORTHEAST, LLC FOR LIMITED DESIGNATION AS AN)
ELIGIBLE TELECOMMUNICATIONS CARRIER FOR)
PURPOSES OF LIFELINE SUPPORT ONLY) DOCKET NO. TO12030233

Parties of Record:

Michele K. Thomas, Esq., T-Mobile USA, Inc.
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Mark P. Trincherro, Esq., Davis Wright Tremaine LLP

BY THE BOARD¹:

On October 3, 2014, T-Mobile Northeast LLC (hereinafter "T-Mobile" or "the Company")², a wholly-owned subsidiary of T-Mobile USA, Inc. d/b/a T-Mobile, filed a Notice of Relinquishment of Its Eligible Telecommunications Carrier Designation ("Notice") with the Board, pursuant to 47 U.S.C. § 214(e)(4) and 47 C.F.R. § 54.205(a), for relinquishment of its Eligible Telecommunications Carrier ("ETC") designation effective December 31, 2014³. As an ETC, the Company is permitted to offer Lifeline⁴ service to qualified households in New Jersey.

¹ Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

² T-Mobile is a facilities-based wireless carrier not subject to the traditional jurisdiction of the Board. However, the Board has retained the authority to designate ETCs in the state and, therefore, must determine whether an existing ETC may relinquish its designation.

³ The Board designated T-Mobile as an ETC by Order dated December 19, 2012, in the within docket, subject to various conditions and requirements.

⁴ Lifeline service is a federally funded program that is part of the Universal Service Fund and provides a \$9.25/month subsidy directly to the ETC that serves the qualified low-income consumer. 47 C.F.R. § 54.403(a).

T-Mobile states that, by the December 19, 2012 Order, it received ETC designation to offer Lifeline services to qualified households in New Jersey in the wire centers listed in Exhibit A to its Notice ("the ETC Service Area"). Upon reviewing its on-going business plans, T-Mobile decided that it will not continue to operate as a Lifeline-only ETC in New Jersey and, therefore, it will no longer receive reimbursement for Lifeline discounts after the effective date of its relinquishment. However, T-Mobile will continue to provide wireless service in New Jersey so existing and future subscribers will continue to receive wireless service from T-Mobile. See Notice at 3.

According to the Company, its application for relinquishment of its ETC designation in New Jersey complies with federal law and must be granted because: (1) there is currently more than one ETC serving the ETC Service Area; (2) T-Mobile is providing advance notice to the Board of such relinquishment; (3) T-Mobile will continue providing service to its customers and, additionally, the remaining ETCs in the market are able to serve the Lifeline needs of consumers within their respective designated service areas that cover the ETC Service Area; and (4) no additional facilities will need to be purchased or constructed by the remaining ETCs. See Notice at 4-5.

T-Mobile indicates that it has approximately twenty (20) Lifeline customers in New Jersey and that following relinquishment of its ETC designation, it will provide notice to the former T-Mobile Lifeline customers that it no longer participates in the Lifeline program, and the customers will receive courtesy credits in the amount of their Lifeline discount for forty-five (45) days. Thereafter, the customers may select an alternative calling plan from T-Mobile or they may obtain discounted Lifeline service from another provider. If a former T-Mobile Lifeline customer decides to obtain service from another provider, T-Mobile will not impose an early termination fee on the customer. See Notice at 5-6.

By letter dated December 2, 2014, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments. Proving that T-Mobile has complied with federal-law requirements pursuant to 47 U.S.C. § 214(e)(4) and 47 C.F.R. § 54.205(a) for an ETC seeking to relinquish its designation and obligations. However, Rate Counsel submits that T-Mobile's compliance with Federal Communications Commission ("FCC") regulations do not relieve it of its obligations for customer notice pursuant to the Board's mass migration regulations. Id. at 1-2. Thus, Rate Counsel requests that the Board require T-Mobile to abide by the mass migration process pursuant to N.J.A.C. 14:10-12.6, or alternatively to seek a waiver of the rules, which Rate Counsel would not oppose.

DISCUSSION

T-Mobile's Notice is largely based on the Federal Communications Act of 1934, as amended, 47 U.S.C. §§ 151 et seq. Federal law permits an ETC to relinquish its ETC designation provided it complies with 47 U.S.C. 214(e)(4) and 47 C.F.R. § 54.205(a)⁵. Specifically, a state commission shall permit an ETC to relinquish its designation in any area served by more than one ETC, provided that the relinquishing ETC gives the state commission advance notice. The FCC has exclusive jurisdiction to regulate the rates and conditions of market entry of mobile services. 47 U.S.C. § 332(c)(3)(A). However, states are expressly permitted to regulate the "other terms and conditions" of commercial mobile services. Id. Also, a State may impose "requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers." 47 U.S.C. § 253(b). As indicated in the Board's December 19, 2012 designating T-Mobile as an ETC, T-Mobile was required to comply with various requirements and conditions.

Regarding Rate Counsel's issue of notice under the Board's mass migration rules, the Board notes that N.J.A.C. 14:10-12.1 et seq. governs any telecommunications service provider "operating in New Jersey and intending to depart a service territory therein." N.J.A.C. 14:10-12.2. The Board's mass migration rules do not address how a wireless telecommunications carrier that received ETC designation may relinquish such designation. However, based on the Notice and relevant information provided by the Company, including responses to Board Staff's discovery requests, the Company's application is consistent with the federal statutory requirements for relinquishment. The Company's notice clearly states its intentions and contains appropriate links to both T-Mobile's website and the Universal Service Administrative Company where customers may search for, and research existing, Lifeline ETCs serving New Jersey. Nevertheless, in reviewing the Company's proposal, the Board is concerned that some customers may not be able to transition to another Lifeline carrier seamlessly within the prescribed timeframe due to partial administrative and technical difficulties.

Therefore, the Board approves T-Mobile's request for relinquishment, but due to the circumstances outlined in the filing, modifies the effective date of ETC-designation relinquishment to correspond to the date when all current T-Mobile Lifeline customers in New Jersey are transitioned to other suitable arrangements. Once that transition has occurred, the Company is **DIRECTED** to file a letter with the Secretary of the Board, with a copy going to the Division of Telecommunications, and certified by an officer of the Company, that the transition has taken place. Until such certified filing has been made, T-Mobile shall continue to comply with all applicable conditions and requirements set forth in the Board's December 19, 2012 Order.

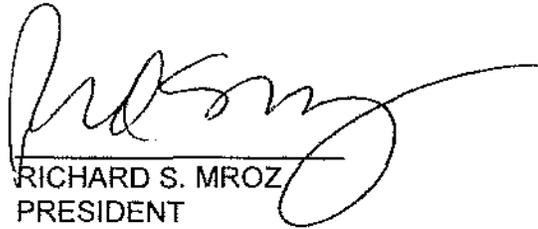
⁵ The statutory requirements for relinquishment include: 1) there must be more than one ETC servicing in the area; 2) the ETC seeking relinquishment must provide advance notice to the relevant state commission; 3) the customers served by the relinquishing ETC must continue to be served by an ETC; and 4) to the extent that additional facilities are required, sufficient notice shall be provided.

Accordingly, the Notice is HEREBY APPROVED as conditioned herein.

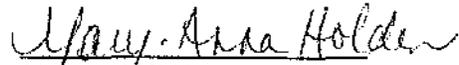
This Order shall be effective on February 23, 2015.

DATED: 2/11/15

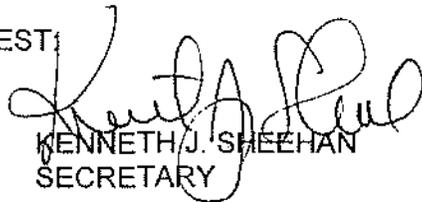
BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER

ATTEST:

KENNETH J. SHEEHAN
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities



In the Matter of the Application of T-Mobile Northeast LLC for Limited Designation as an Eligible
Telecommunications Carrier for Purposes of Lifeline Support Only
BPU Docket No. TO12030233

SERVICE LIST

Michele K. Thomas, Esq.
Principal Corporate Counsel
T-Mobile USA, Inc.
4 Sylvan Way
Parsippany, NJ 07054
Michele.Thomas@T-Mobile.com

Mark P. Trincherro, Esq.
Davis Wright Tremaine LLP
1633 Broadway, 27th Floor
New York, NY 10019-6708
marktrincherro@dwt.com

Kenneth J. Sheehan, Secretary
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
Kenneth.sheehan@bpu.state.nj.us

Paul Flanagan, Executive Director
Division of Telecommunications
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
Paul.flanagan@bpu.state.nj.us

Harold Bond
Division of Telecommunications
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
Harold.bond@bpu.state.nj.us

Stefanie A. Brand, Esq., Director
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003
sbrand@rpa.state.nj.us

Carol Artale, Esq.
Counsel's Office
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
Carol.artale@bpu.state.nj.us

Jimarli Figueiredo
Division of Telecommunications
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
Jimarli.figueiredo@bpu.state.nj.us

Valerie Haynes, Chief
Office of Case Management
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
Valerie.Haynes@bpu.state.nj.us

Alex Moreau, Esq.
Deputy Attorney General
Dept. of Law & Public Safety
Division of Law
123 Halsey Street, 5th Floor
Post Office Box 45029
Newark, NJ 07101-45029
Alex.Moreau@dol.lps.state.nj.us

Christopher J. White, Esq.
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003
cwhite@rpa.state.nj.us