



STATE OF NEW JERSEY
Board of Public Utilities
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www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATIONS

IN THE MATTER OF PETITION OF Q LINK WIRELESS, LLC) ORDER
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER IN THE STATE OF NEW)
JERSEY) DOCKET NO. TO20100635

Parties of Record:

Lance J.M. Steinhart, Esq., Q Link Wireless LLC
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On October 5, 2020, Q Link Wireless LLC (“Q Link” or “Company”)¹, filed a petition with the New Jersey Board of Public Utilities (“Board”) requesting designation as an Eligible Telecommunications Carrier (“ETC”) to provide Lifeline² service to qualifying New Jersey consumers (“Petition”). The Petition did not seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of participating in the Link-Up Program or providing service to high cost areas.

To be eligible to participate in the Lifeline program consumers must either have an income that is at or below 135% of the Federal Poverty Guidelines or participate in certain federal assistance programs, such as the Supplemental Nutrition Assistance Program (“SNAP”), Medicaid, Federal Public Housing Assistance, Supplemental Security Income, the Veterans and Survivors Pension Benefit, or certain Tribal Programs. 47 C.F.R. § 54.409.

¹ Q Link is a Delaware limited liability company and wholly-owned by its parent, Quadrant Holdings Group LLC. Q Link is currently designated as an ETC in the Arizona, Arkansas, Colorado, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New York, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Texas, US Virgin Islands, Utah, Vermont, Washington, West Virginia, and Wisconsin. The Company has an application for ETC designation pending with the FCC (for the states of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, Tennessee, Virginia, the District of Columbia), and with the states of New Mexico and Virginia.

² 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).

The Board has jurisdiction to designate Wireless ETCs in accordance with Section 214(e)(2) of the federal Communications Act of 1934 ("Act"). The Federal Communications Commission ("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 and approve ETC designations. Id.

In its Petition, the Company avers that it meets all the statutory and regulatory requirements (the FCC's *USF/ICC 456 Transformation Order*³, *Lifeline and Link Up Reform Order*⁴ and *Lifeline Modernization Order*⁵) for designation as an ETC in the State of New Jersey. Section 214(e)(2) of the Act requires that ETCs meet the following criteria for designation as an ETC:

- 1) Common carrier status;
- 2) Offer all the supported services in its Lifeline service offering;
- 3) Offer Lifeline service throughout its designated ETC service area;
- 4) Advertise the availability of Lifeline service; and
- 5) Meet all of requirements for designation as an ETC for purposes of providing Lifeline services.

According to the Company's Petition, the Company satisfies the existing criteria established under federal law⁶, the FCC rules and orders⁷, and applicable New Jersey requirements. Q Link states that:

1. It is a common carrier.⁸
2. Will provide all supported services required by 47 C.F.R. §54.101(a).
3. Will advertise the availability of supported services and rates using media of general distribution as required by 47 C.F.R. § 54.201(d)(2).

³ In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("USF/ICC Transformation Order").

⁴ 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").

⁵ In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund, WC Docket No. 11-42, WC Docket No. 00-197, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (hereinafter, "Third Report and Order" or "Lifeline Modernization Order").

⁶ 47 C.F.R. § 54.202(a)(1)

⁷ 47 C.F.R. § 54.201(d). In its USF/ICC Transformation Order, the FCC modified the required supported services in 47 C.F.R. § 54.101 and the additional requirements for designation as an ETC in 47 C.F.R. § 54.202. In the Matter of Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, released November 18, 2011 ("USF/ICC Transformation Order").

⁸ 47 U.S.C. § 332(c)(1)(A)

4. Will provide Lifeline service throughout its designated service area throughout the State of New Jersey, subject to the existence of Sprint Spectrum L.P. and/or T-Mobile USA, Inc.'s ("Underlying Carriers") facilities and corresponding coverage.
5. Will certify and comply with the service requirements applicable to the support that it receives pursuant to 47 C.F.R. § 54.202(a)(1)(i).
6. Has the ability to remain functional in emergency situations pursuant to 47 C.F.R. § 54.202(a)(2).
7. Satisfies consumer protection and service quality standards pursuant to 47 C.F.R. § 54.202(a)(3).
8. Has demonstrated that it is financially and technically capable of providing Lifeline-supported services pursuant to 47 C.F.R. § 54.202(a)(4).
9. Will comply with certification and verification requirements in accordance with 47 C.F.R. § 54.410.
10. Will provide the Board a copy of its annual certifications and Lifeline recertifications results pursuant to 47 C.F.R. § 54.416, as well as a copy of its annual report filed pursuant to 47 C.F.R. § 54.422.
11. Will comply with rules and regulations imposed by the Board.

As a Commercial Mobile Radio Service ("CMRS") provider and as a common carrier, Q Link will provide prepaid wireless telecommunications services to consumers by using the underlying wireless networks of its Underlying Carriers on a wholesale basis.

Q Link avers that it is able to provide all of the supported services required by 47 C.F.R. § 54.101(a) as follows:

1. Voice Grade Access to the Public Switched Telephone Network ("PSTN"), by providing voice grade access to the PSTN through the purchase of wholesale CMRS services from its facilities-based Underlying Carriers.
2. Local Usage, at no additional charge by offering rate plans that provide its customers with minutes of use for local service at no additional charge.
3. Access to Emergency Services by providing 911 and E911 access for all of its customers free of charge to the extent the local government in its service area has implemented 911 or E911 systems.
4. Toll Limitation is no longer deemed a supported service by the FCC.⁹ Nonetheless, Q Link's offerings allow Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid or pay-as-you-go basis. Q Link's service, moreover, is not offered on a distance-sensitive basis and local and domestic long-distance minutes are treated the same.

⁹ Lifeline and Link up Reform Order at ¶ 367.

Q Link recognizes that Section 214(e)(1)(A) of the Act states that ETCs shall offer services, at least in part, over their own facilities, and that Section 54.201(i) of the FCC's Rules (47 C.F.R. § 54.201(i)) prohibits state commissions from designating as an ETC a telecommunications carrier that offers services exclusively through the resale of another carrier's services. However, the FCC has granted forbearance from enforcement of this facilities requirement to carriers seeking Lifeline-only ETC designation.¹⁰

Section 10(e) of the Act (47 U.S.C. § 160(e)) provides: "[a] State commission may not continue to apply or enforce any provision of this chapter that the [Federal Communications] Commission has determined to forbear from applying under subsection (a) of this section." As such, Q Link contends that the Board is required by Section 10(e) to act in accordance with the FCC's grant of forbearance, and therefore, may not apply the facilities-based requirement to Q Link. Therefore, Q Link contends that the Board has the authority under Section 214(e)(2) of the Act to grant Q Link's request for designation as an ETC throughout the State of New Jersey.

Upon designation as an ETC, Q Link has committed to provide all services supported by the USF program, as set out in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101 (a)) throughout New Jersey, and intends to be the leader in the prepaid marketplace by offering customers value and competitive amounts of voice and broadband usage. Q Link Lifeline customers will be provided with the same features enjoyed by all other Q Link prepaid customers, with the exception that Lifeline service will not require payment of an out-of-pocket fee by subscribers. Q Link commits that its Lifeline-supported voice service will exceed the minimum service standards for broadband internet access services, including for service speed and data usage allowance.

Q Link proposes to offer its Lifeline customers the following:

- 1) 1,000 voice minutes,
- 2) unlimited text messages, and
- 3) 3 GB of data per month at no cost (minutes and data do not rollover).

Q Link's proposed offering also includes a free Wi-Fi enabled Smartphone, or Sim Card/data –capable tablet/hotspot device, free calls to Company Customer Service, free calls to 911, free access to Voicemail, Caller-ID, Call Waiting, Call Forwarding, and 3-Way Calling. Voice minutes may be used for Domestic Long Distance at no extra cost. In addition, the Company states that it will allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber without the burden of credit checks or service contracts. If customers need additional minutes or data, they can purchase airtime (voice, data, or voice/data bundles) as set forth on Q Link's website:

<https://qlinkwireless.com/members/cart/quickpurchase.aspx?shop=bundles>.

Customers in New Jersey can apply to the National Verifier¹¹ via mail or online. Q Link will rely on the National Verifier to determine initial and ongoing eligibility of New Jersey Lifeline subscribers as required by the FCC. Q Link will also comply with the FCC's Fifth Report and Order, which set forth reforms to strengthen the Lifeline program's enrollment, recertification, and reimbursement processes, once the rule changes set forth therein become effective.¹² In order to combat waste fraud and abuse, the Company will comply with the requirements of the National Lifeline Eligibility Accountability Database to determine if a customer is currently receiving a Lifeline benefit.

¹⁰ Lifeline and Link up Reform Order at ¶ 368.

¹¹ The National Verifier launched in New Jersey on October 11, 2019.

¹² In the Matter of Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 17-287, WC Docket No. 11-42, WC Docket No. 09-197, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 19-111 (rel. Nov. 14, 2019).

According to the Company, its ETC request is consistent with the Board's designation of TracFone and Virgin Mobile as ETCs.¹³ The Company claims that designation of Q Link would further competition for wireless Lifeline service and would offer eligible consumers an additional choice of providers. The Company also states that it meets FCC requirements for designation as an ETC and such designation would serve the public interest.

By letter dated April 14, 2021, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments to the Board. Rate Counsel does not oppose approval if the Board determines that Q Link meets the ETC designation requirements. Rate Counsel believes approval would be in the public interest based upon Q Link's representations.

DISCUSSION

Q Link has demonstrated that it meets or exceeds all of the current FCC requirements and has pledged to comply with any existing or proposed federal requirements. The Board, however, requires the Company to adhere to the following as conditions of approval:

- 1) To continue to work with the National Verifier in order to prevent waste, fraud, and abuse of the Lifeline program;
- 2) To comply with all FCC rules and reporting requirements and submit to the Board total federal funds received and the number of customers served in New Jersey. This information must be submitted with a certification made by an officer of the Company attesting to its accuracy;
- 3) To provide any other data or information deemed necessary by Board Staff to evaluate compliance with all federal and state requirements;
- 4) The Company did not seek and it is not granted through this Order access to funds from the Federal Universal Service Fund for the purpose of participating in the Link-Up program or providing service to high cost areas; and
- 5) Q Link's ETC designation may, at any time, be suspended or revoked by order of the Board.

Q Link, in its Petition and responses to Board Staff's discovery request, has indicated that it intends to comply with the FCC and Board requirements. The Board is satisfied that Q Link's Petition meets and exceeds the relevant criteria established to receive approval from this Board. Therefore, the Company's Petition is **HEREBY APPROVED** as conditioned herein. The Board **DIRECTS** that the Director of the Office of Cable Television and Telecommunications, with the assistance of the Office of the Attorney General, if such assistance is deemed necessary, send the appropriate notice of this Order designating Q link as an ETC to the FCC and Universal Service Administration Company.

¹³ See e.g., In the Matter of a Petition by TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of New Jersey, Docket No. TO09010092 (April 27, 2009); In the Matter of Virgin Mobile USA, LP Petition for Limited Designation as an Eligible Telecommunications Carrier, Docket No. TO10020093 (August 4, 2010).

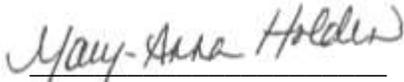
This Order shall be effective on May 24, 2021.

DATED: May 19, 2021

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

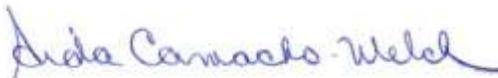


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

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