



Agenda Date: 12/18/24

Agenda Item: IVB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATIONS

IN THE MATTER OF PETITION OF DISH WIRELESS) ORDER
LLC FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER IN THE STATE)
OF NEW JERSEY FOR THE LIMITED PURPOSE OF)
PROVIDING LIFELINE SERVICES TO QUALIFYING) DOCKET NO. TE24030163
CUSTOMERS.

Parties of Record:

Alison Minea, Vice President and Associate General Counsel, DISH Wireless L.L.C.
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On March 4, 2024, DISH Wireless L.L.C. d/b/a Gen Mobile ("DISH Wireless" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board") requesting designation as an Eligible Telecommunications Carrier ("ETC") to provide Lifeline service under the Gen Mobile brand to qualifying New Jersey consumers ("Petition").¹ By the Petition, DISH Wireless sought ETC designation solely for the purpose of providing Lifeline service and does not seek access to funds from the federal Universal Service Fund ("USF") for participation in the Link-Up program or for providing service to high-cost areas.

DISH Wireless is a Colorado limited liability company that provides resold wireless telecommunications services in New Jersey and other states, using the Gen Mobile brand name and other brand names (Boost Mobile and Ting).

DISH Wireless provides, among other things, Commercial Mobile Radio Services ("CMRS") and is currently designated as a wireless ETC in the following twenty-six (26) states: Colorado, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming. Dish Wireless is

¹ Lifeline service is a federally funded program that is part of the Universal Service Fund and provides up to \$9.25/month subsidy directly to the ETC that serves the qualified low-income consumer. 47 C.F.R. § 54.403(a).

authorized by the California Public Utilities Commission to provide California Lifeline service, and has filed or plans to file for ETC status in other states.

The Lifeline program provides qualifying low-income consumers discounts for voice, broadband Internet, or bundled voice-broadband packages to help ensure access to affordable communications services. To be eligible for participation in the Lifeline program, the Federal Communications Commission ("FCC") requires consumers to 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.²

The Board has jurisdiction to designate Wireless ETCs in accordance with Section 214(e)(2) of the federal Communications Act of 1934 ("Act"), as amended.³ The FCC has exclusive jurisdiction to regulate the rates and conditions of market entry of mobile services.⁴ However, states are expressly permitted to regulate the "other terms and conditions" of commercial mobile services and approve ETC designations.⁵

Petition

In the Petition, the Company averred that it meets all the statutory and regulatory requirements (see: the Lifeline and Link Up Reform Order,⁶ the Lifeline Modernization Order,⁷ and the Fifth Report and Order⁸) for designation as an ETC in the State of New Jersey. Section 214(e)(2) of the Act and 47 C.F.R. § 54.201(d) require 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;

² See, 47 C.F.R. § 54.409.

³ 47 U.S.C. 214(e)(2).

⁴ See, 47 U.S.C. § 332(c)(3)(A).

⁵ Id.

⁶ In re 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").

⁷ In re 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) ("Third Report and Order" or "Lifeline Modernization Order").

⁸ In re 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) ("Fifth Report and Order").

- 3) Offer Lifeline service throughout its designated ETC service area;
- 4) Advertise the availability of Lifeline service; and
- 5) Meet all requirements for designation as an ETC for purposes of providing Lifeline services.

According to the Petition, DISH Wireless satisfies the existing criteria established under federal law,⁹ the FCC rules and orders,¹⁰ and applicable New Jersey requirements. DISH Wireless stated that it:

1. Is a common carrier.¹¹
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).
4. Will provide Lifeline service wherever its underlying, facilities-based providers have wireless coverage.
5. Will certify and comply with the service requirements applicable to the low-income support that it receives pursuant to 47 C.F.R. § 54.202(a)(1)(i).
6. Demonstrates it 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 provide all services supported by the universal service program, as detailed in 47 C.F.R. § 54.101(a), throughout New Jersey.
10. Will comply with certification and verification requirements in accordance with 47 C.F.R. § 54.410.
11. Will comply with the requirements of the National Lifeline Accountability Database ("NLAD") and 47 C.F.R. § 54.404 of the FCC's rules.
12. Will provide the Board a copy of its annual certifications and Lifeline recertification results pursuant to 47 C.F.R. § 54.416 (i.e., FCC Form 555), as well as a copy of

⁹ 47 C.F.R. § 54.202(a)(1).

¹⁰ 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 re Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, released November 18, 2011 ("USF/ICC Transformation Order").

¹¹ See 47 U.S.C. § 332(c)(1)(A).

its annual report filed pursuant to 47 C.F.R. § 54.422 (i.e., FCC Form 481), and will comply with applicable Board reporting requirements for Lifeline ETCs.

13. Will comply with rules and regulations imposed by the Board.

As a CMRS provider and as a common carrier, DISH Wireless indicated that it would provide affordable prepaid wireless telecommunications services to consumers under the Gen Mobile brand, a recognized and trusted provider in this market segment.

DISH Wireless asserted that it is able to provide all of the supported voice telephony services required by 47 C.F.R. § 54.101(a) as follows:

1. Voice Grade Access to the Public Switched Telephone Network ("PSTN") through the purchase of wholesale CMRS services from its Underlying carriers.
2. Minutes of Use for 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 Enhanced 911 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 to qualifying low-income consumers. The FCC has determined that toll limitation is no longer deemed a supported service.¹² As defined in 47 C.F.R. 8.1(b), DISH Wireless also provides broadband internet access service to consumers.

DISH Wireless indicated that it 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. DISH Wireless will offer Gen Mobile-branded services that are designated for federal universal support using a combination of its own facilities and/or resale of another carrier's services. Therefore, DISH Wireless satisfies the applicable facilities-based requirement for ETCs, including in the State of New Jersey. Because DISH Wireless meets the facilities-based requirement in New Jersey and other states, there is no need for DISH Wireless to obtain an approved FCC Compliance Plan in accordance with the 2012 Lifeline and Link Up Reform Order.¹³

DISH Wireless represented that it has the ability to provide all services supported by the USF, as detailed in 47 C.F.R. § 54.101(a), throughout New Jersey. In the Petition, DISH Wireless stated that its prepaid wireless plans are affordable, easy to use, and attractive to low-income consumers. DISH Wireless asserted that mobile customers can choose from several affordable prepaid calling plans and handsets and have access to high-quality, responsive customer service. DISH Wireless represented that prepaid plans start as low as ten dollars per month and can be refilled at an estimated 10,000 retail locations nationwide. In addition, prepaid Lifeline customers will receive an upgraded handset at an additional charge or SIM card offer, as well as access to

¹² Lifeline and Link up Reform Order at ¶ 367.

¹³ Lifeline and Link up Reform Order at ¶ 368.

voicemail, caller ID, call forwarding, three-way calling, and call waiting features at no additional charge. DISH Wireless stated that customers may use their minutes to place domestic long-distance calls at no additional charge, and calls to the Company's customer service are free with no deduction of available minutes. DISH Wireless represented that calls to 911 emergency services are always free, regardless of service activation or availability of minutes.

DISH Wireless proposed to offer its Lifeline customers the following plans:

<u>Subsidy Amount (\$)</u>	<u>Subsidy Type</u>	<u>Gen Mobile Lifeline Plan Offering</u>
9.25	Lifeline (Federal)	1,000 minutes of talk/voice, 1,000 text, and 4.5 GB of data
34.25	Lifeline (Federal and Tribal)	Unlimited talk & text, 11 GB of data

In response to a discovery request from Board Staff ("Staff") dated August 8, 2024, DISH Wireless stated that available smartphones will differ from time to time based on demand and available inventory. As of the time of filing, the current list of smartphones available are as follows:

Condition	Make	Model	Price (to qualified Lifeline customers)
New	BLU	C5L	\$40.00
New	NUU	A23	\$50.00
Renewed	Motorola	Moto G Stylus	\$75.00
Renewed	Apple	iPhone SE	\$115.00
New	Tablet	(Model Varies)	\$110.01

FCC rules require ETCs to certify and verify a Lifeline customer's initial and continued eligibility.¹⁴ Customers in New Jersey can apply to the National Eligibility Verifier ("National Verifier") via mail or online.¹⁵ DISH Wireless indicated that it would rely on the National Verifier to determine initial and ongoing eligibility of New Jersey Lifeline subscribers as required by the FCC. DISH Wireless utilizes the standard Lifeline application forms as required by FCC rules, and thus complies with the disclosure and information collection requirements in 47 C.F.R. § 54.410(d).¹⁶ In order to combat waste, fraud, and abuse, the Company indicated that it would comply with the

¹⁴ See, 47 C.F.R. § 54.410.

¹⁵ The National Verifier launched in New Jersey on October 11, 2019.

¹⁶ FCC Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program, WC Docket No. 11-42, Public Notice, "Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program," DA 18-161 (rel. Feb. 20, 2018). The standard application/certification forms are available on Universal Service Administrative Company's ("USAC's") website (See USAC, Lifeline Forms, <http://www.usac.org/li/tools/forms/default.aspx>).

requirements of the National Lifeline Eligibility Accountability Database to determine if a customer is currently receiving a Lifeline benefit.

The Company contended that designation of DISH Wireless as an ETC would further competition for wireless Lifeline service and would significantly benefit low-income consumers eligible for Lifeline services in New Jersey, the intended beneficiaries of universal service.

By letter dated October 29, 2024, the New Jersey Division of Rate Counsel submitted comments to the Board on the Petition and did not oppose approval of the Petition should the Board determine that DISH Wireless met all ETC designation requirements.

DISCUSSION AND FINDINGS

To qualify as a Lifeline-only ETC, carriers must offer Lifeline subscribers Lifeline-supported voice service (mobile or landline), broadband internet service, or a package of voice and broadband service. The Board **HEREBY FINDS** that DISH Wireless 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 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 Staff to evaluate compliance with all federal and state requirements;
- 4) To provide the Board a copy of its annual certifications and Lifeline recertification results pursuant to 47 C.F.R. § 54.416 (i.e., FCC Form 555), as well as a copy of its annual report filed pursuant to 47 C.F.R. § 54.422 (i.e., FCC Form 481), and comply with applicable Board reporting requirements for Lifeline ETCs.
- 5) To comply with all FCC rules and reporting requirements as well as USAC audit requirements.

DISH Wireless in its Petition and responses to Staff's discovery requests, has indicated that it will comply with the FCC and Board requirements. After careful review of the record, the Board is satisfied that DISH Wireless meets and exceeds the relevant criteria established to receive approval for designation as an ETC from this Board. Therefore, the 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 DISH Wireless as an ETC to the FCC and USAC. DISH Wireless's ETC designation may, at any time, be suspended or revoked by order of the Board.

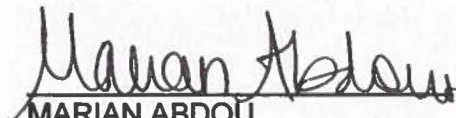
This Order shall be effective on December 26, 2024.

DATED: December 18, 2024

BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOULOU
COMMISSIONER


MARIAN ABDOU
COMMISSIONER


MICHAEL BANGE
COMMISSIONER

ATTEST:


SHERRILL L. GOLDEN
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 PETITION OF DISH WIRELESS LLC FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF NEW JERSEY FOR THE
LIMITED PURPOSE OF PROVIDING LIFELINE SERVICES TO QUALIFYING CUSTOMERS

DOCKET NO. TE24030163

SERVICE LIST

Alison Minea
DISH Wireless L.L.C
1110 Vermont Ave NW Ste. 450
Washington, DC 20005
Alison.Minea@dish.com

Division of Rate Counsel

140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003

Brian O. Lipman, Esq., Director
blipman@rpa.nj.gov

Robert Glover, Esq.
rglover@rpa.nj.gov

Emily Lam, Esq.
elam@rpa.nj.gov

Dept. of Law & Public Safety

Richard J. Hughes Justice Complex
25 Market Street, P.O. Box 112
Trenton, NJ 08625

Terel Klein, DAG
terel.klein@law.njoag.gov

Steven Chaplar, DAG
steven.chaplar@law.njoag.gov

Board of Public Utilities

44 South Clinton Ave., 1st Floor
P.O. Box 350
Trenton, NJ 08625

Sherri Golden, Secretary
board.secretary@bpu.nj.gov

Stacy Peterson, Deputy Executive Director
stacy.peterson@bpu.nj.gov

Counsel's Office

Colin Emerle, Deputy General Counsel
colin.emerle@bpu.nj.gov

Steven Athanassopoulos
steven.athanassopoulos@bpu.nj.gov

**Office of Cable Television and
Telecommunications**

Lawanda Gilbert, Director
lawanda.gilbert@bpu.nj.gov

Malike Cummings
malike.cummings@bpu.nj.gov

Jimarli Figueiredo
jimarli.figueiredo@bpu.nj.gov