



Agenda Date: 9/7/22
Agenda Item: IVA

STATE OF NEW JERSEY
Board of Public Utilities
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Trenton, New Jersey 08625-0350
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OFFICE OF CABLE
TELEVISION AND
TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF TELRITE) ORDER
CORPORATION D/B/A LIFE WIRELESS FOR)
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS)
CARRIER IN THE STATE OF NEW JERSEY) DOCKET NO. TO20080542

Parties of Record:

John J. Heitmann, Esq., on behalf of Telrite Corporation d/b/a Life Wireless
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On August 26, 2020, Telrite Corporation d/b/a Life Wireless ("Telrite" or "Company"),¹ filed a petition with the New Jersey Board of Public Utilities ("Board") for designation as an Eligible Telecommunications Carrier ("ETC") to provide Lifeline service, a program funded by the federal Universal Service Fund ("USF"), to qualifying New Jersey consumers ("Petition").² In the Petition, Telrite did not seek access to USF funds for the purpose of participating in the Link-Up Program or providing high cost support, which are separate programs.

The Lifeline program provides qualifying low-income consumers discounts on voice or broadband internet to help ensure access to affordable communications service. 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, 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 Telrite, a Georgia corporation, is an established provider of both wireline and wireless telecommunications services. The Company has operated as a wireline provider for 20 years. For its Lifeline services, Telrite operates as a reseller and uses the networks of its underlying service providers, T-Mobile and AT&T mobility, to provide service to its subscribers.

² Lifeline service is a federally funded program that is part of the Universal Service Fund and provides up to 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”). 47 U.S.C. § 214(e)(2). The Federal Communications Commission (“FCC”) has exclusive jurisdiction to regulate the rates and conditions of market entry of mobile services pursuant to 47 U.S.C. § 332(c)(3)(A). However, states are expressly permitted to regulate other terms and conditions of commercial mobile services and approve ETC designations. Id.

In the Petition, the Company averred that it meets all the statutory and regulatory requirements for designation as an ETC in New Jersey, including the requirements for participation in the Lifeline program as outlined in the various FCC Orders.³

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 requirements for designation as an ETC for purposes of providing Lifeline services.

In the Petition, the Company also represented that it satisfies the existing criteria established under federal law⁴, the FCC rules and Orders⁵, and applicable New Jersey requirements in that Telrite:

1. Is a common carrier;⁶
2. Will provide all supported services by reselling the services of its underlying providers required by 47 C.F.R. §54.101(a);

³ 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)(“2012 Lifeline Reform Order”); In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund, WC Docket Nos. 11-42, 09-197, 10-90, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (rel. June 22, 2015); Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund, WC Docket Nos. 11-42, 09-197, 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. April 27, 2016); 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 Nos. 17-287, 11-42, 09-197, Order on Reconsideration, Memorandum Opinion and Order, FCC 17-155 (rel. Dec. 1, 2017)(“2017 Lifeline Reform Order”).

⁴ 7 C.F.R. §54. 202(a).

⁵ 47 C.F.R. §54. 201(d). On November 18, 2011, 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”).

⁶ 47 C.F.R. § 54. 202 (a)(1); 47 C.F.R. § 54. 201(d).

3. Will advertise the availability of its services and charges in a manner reasonably designed to reach Lifeline-eligible consumers as required by 47 C.F.R. § 54.405(b);
4. Will provide Lifeline service throughout its designated service area and the entire State, subject to the existence of its 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)(ii);
6. Has the ability to remain functional in emergencies pursuant to 47 C.F.R. §54.202(a)(2);
7. Satisfies consumer protection and service quality standards;
8. Has demonstrated financial and technical capabilities in 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 Section 54.410 of the FCC's Rules;
10. Will provide the Board a copy of its annual certifications and Lifeline recertification 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; and
11. Will comply with rules and regulations imposed by the Board.

As a mobile telecommunications service provider and common carrier, Telrite will provide all supported services by reselling the services of its underlying providers. It will provide all of the supported services required under 47 C.F.R. § 54.101(a) as follows:

1. Voice grade access to the public switched telephone network via resale of its facilities-based underlying network operations, T-Mobile and AT&T Mobility;
2. Available rate plans to customers with minutes of use for local service at no additional charge;
3. Access to emergency services through 911 and E911 for all customers provided the local government in its service area has implemented 911 or E911 systems free of charge. Telrite also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets; and
4. Offerings allowing Lifeline subscribers to control usage, as its wireless service is offered to users for free until the monthly allowance is reached, at which point subscribers can choose to purchase additional service at low cost.⁷

Telrite recognizes that Section 214(e)(1)(A) of the Act requires that ETCs provide services "using its own facilities or a combination of its own facilities and resale of another carrier's services" and that 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.⁸ In addition, with respect to

⁷ The FCC no longer deems toll limitation as a supported service. 2012 Lifeline Reform Order at ¶ 367. Telrite's Petition also states that its service is not offered on a distance-sensitive basis and local and domestic long-distance minutes are treated the same.

⁸ 2012 Lifeline Reform Order at ¶ 368.

carriers seeking to provide Lifeline-only service, the FCC's 2012 Lifeline Reform Order authorized forbearance from the requirement that an ETC's service area conform to the service area of any rural telephone company serving the same area.⁹ In light of this forbearance, the Board may grant designation to ETCs such as Telrite in rural areas, provided all other applicable requirements are met.

Telrite proposed to initially offer its Lifeline customers the following:

- 1) 1,000 voice minutes;
- 2) Unlimited text and multimedia messages;
- 3) 4.5 GB of data per month at no cost; and
- 4) a smartphone.

This plan also includes the following custom calling features: Caller ID, Call Waiting, Call Forwarding, 3-Way Calling, and Voicemail. In addition, the Company states that it does not conduct credit checks or require long-term contracts. Customers would also be able to purchase additional minutes or data, as needed.

FCC rules require ETCs to certify and verify a Lifeline customer's initial and continued eligibility. Customers in New Jersey can apply for Lifeline service through the National Verifier via mail or online.¹⁰ Telrite indicated that it will rely on the National Verifier to determine initial and ongoing eligibility of New Jersey Lifeline subscribers and would fully comply with all conditions set forth in the various Lifeline Reform Orders, as well as with the FCC's Lifeline rules and policies, more generally, which set forth reforms to strengthen the Lifeline program's enrollment, recertification, and reimbursement processes. In order to combat waste, fraud and abuse, the Company would also comply with the requirements of the National Lifeline Eligibility Accountability Database ("NLAD") to determine if a customer is currently receiving a Lifeline benefit.

According to the Company, its request for ETC designation is consistent with prior requests approved by the Board for other wireless carrier designations, such as TracFone Wireless, Inc., NEXUS Communications, Inc., Virgin Mobile, and T-Mobile Northeast LLC as ETCs.¹¹ The Company contended that designation of Telrite as an ETC would further competition for wireless Lifeline service in New Jersey 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.

⁹ See 47 U.S.C. §§ 160 and 214(e)(5); 47 C.F.R. 54.207(b).

¹⁰ The National Verifier launched in New Jersey on October 11, 2019.

¹¹ See I/M/O 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); I/M/O a Petition by NEXUS Communications Inc, d/b/a TSI for Designation as an Eligible Telecommunications carrier in the State of New Jersey for the Limited Purposes of Offering Lifeline and Link-Up services to Qualified Households, Docket No. TO09040331 (April 28, 2010); I/M/O of Virgin Mobile USA, LP Petition for Limited Designation as an Eligible Telecommunications Carrier, Docket No. TO10020093 (August 4, 2010); I/M/O the Application of T-MOBILE Northeast, LLC for Limited Designation as an Eligible Telecommunications Carrier for Purposes of Lifeline Support Only, Docket No. T012030233 (February 11, 2015).

Rate Counsel Comments

By letter dated June 30, 2022, the New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments to the Board on the Petition. In its comments, Rate Counsel indicated that it does not oppose approval to designate Telrite as an ETC on the condition that the Board closely monitor customer complaints and the Company’s Annual Lifeline Eligible Telecommunications Carrier Certification Form (FCC Form 555) to confirm compliance with the Lifeline program. Rate Counsel further reserved opinion on the FCC Wireline Competition Bureau’s pending decision concerning a request by Telrite for the FCC to review a decision by USAC to recover Lifeline program reimbursements from Telrite in connection with payment quality assurance assessments issued in 2015-2017.¹² Rate Counsel opined that access to additional Lifeline service providers would be in the public interest, and subject to its recommendation to closely monitor Telrite, would not oppose the Board’s determination that Telrite meets the ETC designation requirements.

DISCUSSION

Telrite 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:

- 1) Continue to work with the National Verifier and its own additional processes in place in order to prevent waste, fraud, and abuse of the program;
- 2) Comply with all FCC rules and reporting requirements as well as Universal Service Administrative Company (“USAC”) audit 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) Provide any other data or information deemed necessary by staff of the Board (“Board Staff”) to evaluate compliance with all federal and state requirements;
- 4) As the Company has not requested authorization from the Board to participate in the Link-Up program or to provide a federal high cost program, the Company shall not participate in or provide those programs until such time as authorization to do so is lawfully granted by the Board; and
- 5) Provide the Board with all decisions from the FCC’s Wireline Competition Bureau related to all requests for review that are pending in New Jersey or other states, including the pending requests for the FCC to review and vacate the USAC decisions, WC Docket No. 11-42 (filed January 19, 2021, March 15, 2021, June 1, 2021 and August 20, 2021).

After careful review of the record, the Board is satisfied with Telrite’s representations in its Petition and responses to Staff’s discovery request that it intends to comply with FCC and Board requirements. Therefore, the Board **FINDS** that the Company meets and exceeds the relevant

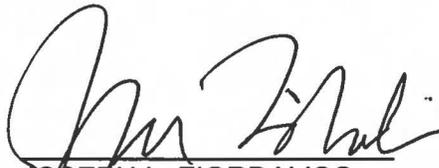
¹² The FCC is currently reviewing the request by Telrite to vacate the USAC decision. See I/M/O Request for Commission Review by Telrite Corporation of Decision of the Universal Service Administrator, WC Docket No. 11-42, filed March 15, 2021(FCC).

criteria established to receive approval for designation as an ETC. The Board **HEREBY APPROVES** the Company's Petition, provided, however, that Telrite's ETC designation may, at any time, be suspended or revoked by future order of the Board for cause or failure to adhere to the conditions set out in this order. The Board **HEREBY DIRECTS** the Director of the Office of Cable Television and Telecommunications, with assistance from the Office of the Attorney General, as deemed necessary, to send the appropriate notice of this order to the FCC and USAC designating Telrite as an ETC.

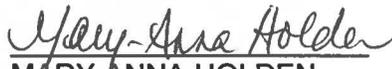
This Order shall be effective on September 14, 2022.

DATED: September 7, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER



DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST:



CARMEN D. DIAZ
ACTING 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 PETITION OF TELRITE CORPORATION D/B/A LIFE WIRELESS
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN
THE STATE OF NEW JERSEY

DOCKET NO. TO20080542

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