



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 THE PETITION OF AMERIMEX) ORDER
COMMUNICATIONS CORP. D/B/A SAFETYNET WIRELESS)
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER IN THE STATE OF)
NEW JERSEY) DOCKET NO. TE22040309

Parties of Record:

Mark Foster, Esq., on behalf of AmeriMex Communications Corp. d/b/a SafetyNet Wireless
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On April 27, 2022, AmeriMex Communications Corp. d/b/a SafetyNet Wireless (“SafetyNet Wireless” 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, SafetyNet Wireless 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

¹SafetyNet Wireless is a Georgia corporation headquartered in Roswell, Georgia and provides prepaid wireless telecommunications services to consumers by using the underlying wireless networks of AT&T and T-Mobile USA, Inc. on a wholesale basis. SafetyNet Wireless is authorized to provide these services as an ETC in California, Colorado, Georgia, Kentucky, Michigan, Missouri, New York, Oklahoma, and Pennsylvania.

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).

Supplemental Nutrition Assistance Program, Medicaid, Federal Public Housing Assistance, Supplemental Security Income, the Veterans and Survivors Pension Benefit, or certain Tribal Programs.³

The Board has jurisdiction to designate Wireless ETCs in accordance with Section 214(e)(2) of the Federal Communications Act of 1934 (“Act”).⁴ 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.⁵

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.⁶

Section 214(e)(2) of the Act requires that the following criteria are met 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.

³ 47 C.F.R. § 54.409.

⁴ 47 U.S.C. § 214(e)(2).

⁵ Id.

⁶ Petition at p.2 (citing 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, FCC 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 Connect America Fund, et al., WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, (rel. November 18, 2011); Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, 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, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 19-111 (rel. Nov. 4, 2019)).

In the Petition, the Company also represented that it satisfies the existing criteria established under federal law,⁷ the FCC rules and Orders⁸ and applicable New Jersey requirements in that SafetyNet Wireless:

1. Is a common carrier;⁹
2. Will provide all supported services by reselling the services of its underlying providers required by 47 C.F.R. §54.101(a);
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 resale-based Commercial Mobile Radio Service ("CMRS") provider and as a common carrier, SafetyNet Wireless 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 services from its facilities-based underlying network carriers, AT&T and T-Mobile USA, Inc.
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. SafetyNet Wireless also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets; and

⁷ 47 C.F.R. §54.202(a).

⁸ 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").

⁹ 47 C.F.R. § 54.202(a)(1); 47 C.F.R. § 54.201(d).

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.¹⁰

SafetyNet Wireless 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 such as the Company that are seeking Lifeline-only ETC designation.¹¹ In addition, with respect to 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.¹² In light of this forbearance, the Board may grant designation to ETCs such as SafetyNet Wireless in rural areas, provided all other applicable requirements are met.

SafetyNet Wireless proposes to initially offer its Lifeline customers the following three tiers of service:

Tier 1

Plan Description:	1000 voice minutes, unlimited SMS text messages, and 25 MB data per month.
Local Calling Area:	National with no roaming fees
Undiscounted Monthly Charge:	\$15.25
Amount of Lifeline Discount:	\$9.25/month
Discounted Monthly Charge:	\$0.00
Activation Fee:	\$25

Tier 2

Plan Description:	350 voice minutes, unlimited SMS text messages, and 4.5 GB data per month.
Local Calling Area:	National with no roaming fees
Undiscounted Monthly Charge:	\$30.25
Amount of Lifeline Discount:	\$9.25/month
Discounted Monthly Charge:	\$15.00
Activation Fee:	\$25

¹⁰ The FCC no longer deems toll limitation a supported service. 2012 Lifeline Reform Order at ¶ 367. SafetyNet’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.

¹¹ 2012 Lifeline Reform Order at ¶ 368.

¹² See 47 U.S.C. §§ 160 and 214(e)(5); 47 C.F.R. 54.207(b).

Tier 3 - Combination Affordable Connectivity Program and Lifeline Plan

Plan Description:	Unlimited voice minutes, unlimited SMS text messages, and 8 GB data per month.
Local Calling Area:	National with no roaming fees
Undiscounted Monthly Charge:	\$60
Amount of Lifeline Discount:	\$9.25/month
Discounted Monthly Charge:	\$0.00
Activation Fee:	\$25

These plans also include the following custom calling features: Caller ID, Call Waiting, Call Forwarding, 3-Way Calling, and Voicemail. In addition, the Company stated, in response to a discovery request from the Staff of the Board of Public Utilities (“Board Staff”), that SafetyNet Wireless does not provide free handsets with the Lifeline broadband offering. However, SafetyNet Wireless offers a free SIM card so that customers can bring their own compatible handset without charge. Customers have the option to purchase additional minutes or data as needed. Plan offerings and additional minutes can be viewed on the Company’s website.

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.¹³ SafetyNet Wireless 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.¹⁴ 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.

In addition to relying on the NLAD, the Company has developed its own auditing system to process and validate the Company’s subsidy data to prevent abuse through the following measures:

- (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a Lifeline subsidy from the Company will be automatically prevented from receiving a second Lifeline subsidy in that same month;
- (2) Inactive Lines Receiving Subsidy: system compares all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines; and
- (3) Subsidies for Deceased Subscribers: Death Master search to ensure that subsidies are not requested for a deceased subscriber.

¹³ The National Verifier launched in New Jersey on October 11, 2019.

¹⁴ See supra note 6.

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., Virgin Mobile, and TruConnect Communications as ETCs.¹⁵ The Company contends that designation of SafetyNet Wireless 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.

Rate Counsel Comments

By letter dated August 30, 2022, the New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments to the Board on the Petition and does not oppose approval if the Board determines that SafetyNet Wireless meets the ETC designation requirements. Rate Counsel recommends, however, that the Board monitor customer complaints and the annual ETC Certification Form (FCC Form 555) to confirm compliance under the Lifeline ETC program.

DISCUSSION

SafetyNet 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:

- 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 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.

After careful review of the record, the Board is satisfied with SafetyNet Wireless’ representations in its Petition and responses to Staff’s discovery requests that it intends to comply with FCC and Board requirements. Therefore, the Board **FINDS** that the Company meets and/or exceeds the relevant criteria established to receive approval for designation as an ETC. The Board **HEREBY APPROVES** the Company’s Petition. This designation may, at any time, be suspended or revoked

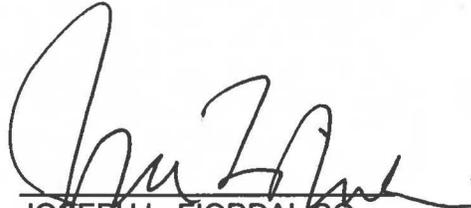
¹⁵ See In re a Petition by TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of New Jersey, Docket No. TO09010092 (April 27, 2009); In re Virgin Mobile USA, LP Petition for Limited Designation as an Eligible Telecommunications Carrier, Docket No. TO10020093 (August 4, 2010); In re the Application of TruConnect Communications for Limited Designation as an Eligible Telecommunications Carrier in the State of New Jersey, Docket No. TO20040285 (November 18, 2020).

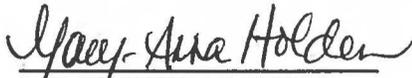
by future order of the Board for cause or failure to adhere to the conditions set out in this Order. The Board **HEREBY DIRECTS** the Director of the Office of Cable Television and Telecommunications, with assistance from the Office of the Attorney General, as deemed necessary, to send the appropriate notice of this order to the FCC and USAC designating SafetyNet Wireless as an ETC.

This Order shall be effective on November 2, 2022.

DATED: October 26, 2022

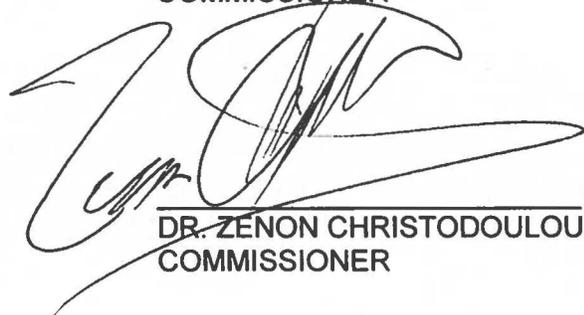
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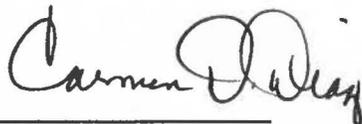

JOSEPH L. FIORDALISO
PRESIDENT


MARYANNA HOLDEN
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COMMISSIONER


ROBERT M. GORDON
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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 AMERIMEX COMMUNICATIONS CORP. D/B/A SAFETYNET
WIRELESS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN
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DOCKET NO. TE22040309

SERVICE LIST

Mark Foster, Esq.
Foster Danowsky LLP
904 West Ave, Suite 107
Austin, TX 78701
mfoster@fosterdanowsky.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

Maria Novas-Ruiz, Esq.
mnovas-ruiz@rpa.nj.gov

Dept. of Law & Public Safety

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

Pamela L. Owen, DAG, ASC
Pamela.Owen@law.njoag.gov

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
Post Office Box 350
Trenton, NJ 08625 - 0350

Carmen D. Diaz, Acting Secretary
board.secretary@bpu.nj.gov

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

Counsel's Office

Carol Artale, Deputy General Counsel
carol.artale@bpu.nj.gov

Lanhi Saldana, Legal Specialist
lanhi.saldana@bpu.nj.gov

**Office of Cable Television
and Telecommunications**

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

Harold Bond, Deputy Director
harold.bond@bpu.nj.gov

Jimarli Figueiredo
jimarli.figueiredo@bpu.nj.gov

Joseph Costa
joseph.costa@bpu.nj.gov