



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 11-11

March 5, 2013

Petition of Global Connection Inc. of America d/b/a STAND UP WIRELESS for Designation as an Eligible Telecommunications Carrier

ORDER APPROVING PETITION

I. INTRODUCTION

In this Order, the Department of Telecommunications and Cable (“Department”) grants the petition (“Petition”) of Global Connection Inc. of America d/b/a STAND UP WIRELESS (“Stand Up Wireless” or “Company”) for limited designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to 47 U.S.C. § 214(e)(2). In its petition, Stand Up Wireless seeks limited designation as an ETC in order to permit it to offer prepaid wireless Lifeline services throughout Massachusetts and to receive universal service fund (“USF”) support for such services. The Department grants Stand Up Wireless’s Petition, subject to the conditions set forth below, finding that the Company meets the Federal Communications Commission’s (“FCC”) ETC requirements, the procedures and requirements of the *Lifeline Reform Order*,¹ the Department’s ETC requirements, and that Stand Up Wireless’s designation as an ETC is in the public interest.

¹ The term “*Lifeline Reform Order*” refers to *In the Matter of Lifeline & Link Up Reform & Modernization, et al.*, WC Docket No. 11-42, et al., *Rep. & Order & Further Notice of Proposed Rulemaking*, FCC 12-11 (rel. Feb. 6, 2012).

II. PROCEDURAL HISTORY

Stand Up Wireless filed an initial petition for limited designation as a facilities-based ETC for the purposes of receiving Lifeline and Link Up support from the USF (“2011 Petition”) on September 13, 2011. 2011 Petition. On November 9, 2011, the Department opened this proceeding, established a procedural schedule and issued its First Set of Information Requests to Stand Up Wireless. The Department received Stand Up Wireless’s responses to these information requests on November 23, 2011.

On December 5, 2011, the Department suspended the procedural schedule in this case due to then pending action by the FCC on several issues concerning the Lifeline program, including those affecting ETC designations in Massachusetts. D.T.C. 11-11, *Hearing Officer Order Suspending Procedural Schedule* (Dec. 5, 2011).

The FCC issued the *Lifeline Reform Order* on February 6, 2012, in which it made material changes to the USF’s Low-Income Program. See *Lifeline Reform Order*, ¶ 1. Among other things, the FCC, acting on its own motion, established a process for forbearance from the facilities requirement of section 214(e)(1)(A) of the Communications Act of 1934, as amended (“Act”), to telecommunications carriers seeking limited ETC designation to participate in the Lifeline program. *Id.*, ¶ 368. The FCC conditioned forbearance upon its approval of a carrier’s compliance plan.² On March 1, 2012, the Department dismissed the 2011 Petition without prejudice, granting leave to amend and re-file the application if the Company availed itself of the FCC’s blanket forbearance provisions and received FCC approval of its compliance plan.

D.T.C. 11-11, *Order of Dismissal Without Prejudice* (Mar. 1, 2012). The FCC approved Stand

² The FCC stated that the compliance plan must provide “specific information regarding the carrier’s service offerings” and must outline “the measures the carrier will take to implement the obligations contained in [the Lifeline Reform] Order as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary.” *Lifeline Reform Order*, ¶ 368.

Up Wireless's compliance plan on May 25, 2012.³ *In the Matter of Lifeline & Link Up Reform & Modernization, et al.*, WC Docket No. 11-42, et al., *Public Notice* (rel. May 25, 2012) ("*FCC Compliance Plan Approval*").

Stand Up Wireless re-filed its petition for limited designation as a Lifeline ETC on June 15, 2012. Petition at 1. On August 6, 2012, the Department issued its Second Set of Information Requests. Stand Up Wireless filed its responses on August 27, 2012.

On September 20, 2012, the Department held a public hearing and an evidentiary hearing. No members of the public spoke at the public hearing and no parties intervened. Dave Skogen, Chief Executive Officer for Stand Up Wireless, offered testimony during the evidentiary hearing. Evidentiary Hearing Transcript ("Tr.") at 9. During the evidentiary hearing, the Department reviewed Stand Up Wireless's Petition and its responses to the Department's information requests. On October 12, 2012, Stand Up Wireless filed its responses to seven record requests made by the Department at the evidentiary hearing. The evidentiary record consists of Stand Up Wireless's 2011 Petition; Stand Up Wireless's responses to the Department's First Round of Information Requests ("IR 1-1" through "IR 1-42"); the Petition; Stand Up Wireless's responses to the Department's Second Round of Information Requests ("IR 2-1" through "IR 2-23"); the testimony at the evidentiary hearing; Stand Up Wireless's proof of publication; and Stand Up Wireless's responses to the Department's record requests ("RR 1" through "RR 7").

III. ANALYSIS AND FINDINGS

State regulatory commissions, upon request and consistent with the public interest, convenience, and necessity, shall designate more than one common carrier as an ETC for a service area designated by the state commission if the carrier meets the requirements of the Act.

³ Stand Up Wireless stated in its compliance plan that it would follow the FCC's Lifeline requirements and all requirements in the compliance plan in all states in which it provides Lifeline service. Petition at Ex. 5.

47 U.S.C. § 214(e). The FCC emphasized in its *Universal Service Order*⁴ that state regulatory commissions should conduct a rigorous ETC designation process. *Universal Service Order*, ¶ 58. Accordingly, the Department conducts its review of the Petition in light of the FCC’s ETC requirements, the procedures and requirements of the *Lifeline Reform Order*, the Department’s ETC requirements, and the public interest. The Department finds that Stand Up Wireless has met these standards.

A. ETC Requirements

Under applicable law, only a carrier designated as an ETC is eligible to receive USF support⁵ for a designated service area. 47 U.S.C. §§ 214(e), 254(e); 47 C.F.R. § 54.201. In Massachusetts, the Department exercises jurisdiction over carriers pursuant to G. L. c. 159, § 12. *See also* D.T.C. 10-3, *Order Opening Investigation* (Sept. 17, 2010); D.T.C. 09-9, *Order* (June 30, 2010). The Department has broad power to regulate telephone service, including the designation of a carrier as an ETC. 47 U.S.C. § 214(e)(2); G. L. c. 159, § 12. Accordingly, it is the Department’s responsibility to determine whether a carrier such as Stand Up Wireless meets the ETC service requirements.

In order for the Department to grant ETC designation, Stand Up Wireless must meet the following requirements:

- 1) Stand Up Wireless is a “common carrier” as defined by the Federal Telecommunications Act of 1996, § 3(10). 47 U.S.C. § 214(e)(1); 47 C.F.R. §§ 20.9, 54.201(d).
- 2) Stand Up Wireless will offer the required supported services (47 U.S.C. § 214(e)(1)(A); 47 C.F.R. §§ 54.101(a), 54.201(d)(1))⁶ to qualifying low-income

⁴ The term “*Universal Service Order*” refers to *In the Matter of Fed.-State J. Bd. on Universal Serv.*, CC Docket No. 96-45, *Rep. & Order*, FCC 05-46 (rel. Mar. 17, 2005).

⁵ USF support is in turn categorized as high cost; low-income; rural health care; and schools and libraries. *See* 47 C.F.R. § 54.701(b).

⁶ The FCC modified the required supported services in 47 C.F.R. § 54.101 in the *USF/ICC Transformation Order*. *In the Matter of Connect Am. Fund, et al.*, WC Docket No. 10-90, et al., *Rep. & Order & Further Notice of Proposed Rulemaking*, FCC 11-161, ¶¶ 76-78, n.114 (rel. Nov. 18, 2011) (“*USF/ICC*”).

consumers (47 C.F.R. § 54.405(a)), throughout its designated service area. 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1).

- 3) Stand Up Wireless's compliance plan has been approved by the FCC's Wireline Competition Bureau and Stand Up Wireless will provide its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes, as well as E911-compliant handsets. *See Lifeline Reform Order*, ¶ 373. In addition, Stand Up Wireless will replace, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services. *See* 47 U.S.C. § 214(e)(1)(A); *Lifeline Reform Order*, ¶¶ 368-381.⁷
- 4) Stand Up Wireless will advertise the availability of supported services and charges therefore in media of general distribution throughout its designated service area (47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2)), and "[p]ublicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service." 47 C.F.R. § 54.405(b).⁸
- 5) Stand Up Wireless is financially and technically capable of providing the supported services. 47 C.F.R. § 54.201(h).
- 6) Stand Up Wireless will comply with additional FCC requirements;⁹ the procedures and requirements set forth in the *Lifeline Reform Order* in accordance with established effective dates;¹⁰ and additional requirements imposed by the Department, as discussed below.

Transformation Order"). The modification was affirmed on reconsideration. *In the Matter of Connect Am. Fund, et al.*, WC Docket No. 10-90, et al., *Order on Reconsideration*, FCC 11-189 (rel. Dec. 23, 2011). These supported services include: voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency services (911 or enhanced 911), to the extent implemented; and toll limitation services for qualifying low-income consumers if the carrier distinguishes between toll and non-toll calls in pricing of the service. *See* 47 C.F.R. § 54.401(a)(2).

⁷ As noted above, Stand Up Wireless has availed itself of the FCC's blanket forbearance from the "own facilities" requirement of 47 U.S.C. § 214(e)(1)(A), subject to these conditions.

⁸ Additionally, when effective, ETCs must disclose on all materials describing Lifeline service that the ETC is offering the service; the offer is a Lifeline service; Lifeline is a government program; the service is non-transferable; only eligible consumers may enroll in the program; and the program is limited to one discount per household. *See* 47 C.F.R. §§ 54.405(c), (d).

⁹ These additional requirements include: certifying that Stand Up Wireless will comply with the service requirements applicable to the support it receives; demonstrating Stand Up Wireless's ability to remain functional in emergency situations; demonstrating that Stand Up Wireless will satisfy applicable consumer protection and service quality standards; and submitting information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers. *See id.* §§ 54.202(a)(1)(i), (2), (3), (5). A carrier need not provide a five-year plan describing proposed improvements to its network if it is only seeking low cost support. *Id.* § 54.202(a)(1)(ii).

¹⁰ These procedures and requirements include:

- 1) screening applicants using the National Lifeline Accountability Database to be established as set forth in 47 C.F.R. §§ 54.404(b)(1)-(10);
- 2) complying with the carrier's obligations to offer Lifeline, including de-enrollment requirements, when effective, as established in 47 C.F.R. §§ 54.405(a)-(e)(1)-(4);

- 7) Finally, Stand Up Wireless’s designation as an ETC must be consistent with the public interest, convenience, and necessity. 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.202(b).

B. The Department’s Analysis

Based on its review of the evidentiary record, the Department finds that Stand Up Wireless satisfies requirements (1) through (7) above. Furthermore, the Department finds that Stand Up Wireless’s designation as an ETC is consistent with the public interest, convenience, and necessity. Therefore, the Department grants Stand Up Wireless ETC designation subject to the conditions set forth below.

1. Stand Up Wireless is a common carrier.

To meet the first ETC requirement, Stand Up Wireless must establish that it is a common carrier. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d). “Common carrier” is defined as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio” 47 U.S.C. § 153(11). Stand Up Wireless states that it is a Commercial Mobile Radio Service (“CMRS”) provider and that CMRS providers are treated as common carriers. Petition at 13 & n.19. The Department finds that Stand Up Wireless is a “common carrier” under 47 U.S.C. § 332(c)(1)(a)¹¹ and 47 C.F.R. § 20.9. *See also In the Matter of the Application of Virgin Mobile USA, L.P.’s Petition for Ltd. Designation as an Eligible Telecomms. Carrier*, D.T.C. 10-11, *Order Approving Petition* at 6 (Sept. 9, 2011) (“*Virgin Mobile ETC Order*”) (finding Virgin Mobile’s CMRS services satisfied the definition of common carrier).

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- 3) certifying that it is prepared to comply with the subscriber eligibility and determination and certification requirements established in 47 C.F.R. §§ 54.410(a)-(g) to the extent applicable;
 - 4) complying with annual certifications required by ETCs established in 47 C.F.R. §§ 54.416(a), (b);
 - 5) complying with record keeping requirements established in 47 C.F.R. § 54.417;
 - 6) complying with audit requirements, to the extent applicable, established in 47 C.F.R. § 54.420; and
 - 7) complying with annual reporting requirements established in 47 C.F.R. § 54.422.

¹¹ “A person engaged in the provision of a service that is a commercial mobile service shall, insofar as such person is so engaged, be treated as a common carrier[.]” 47 U.S.C. § 332(c)(1)(a).

2. *Stand Up Wireless will offer the supported services to eligible low-income consumers throughout its Designated Service Area.*

Stand Up Wireless must demonstrate that it will offer the supported services to eligible low-income consumers throughout its Designated Service Area. 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. §§ 54.101(a), 54.201(d)(1), 54.405(a). Because Stand Up Wireless has availed itself of the FCC’s forbearance from the “own facilities” requirement of section 214(e)(1)(A), it is not necessary for Stand Up Wireless to provide the supported services using any of its own facilities. *See* 47 U.S.C. § 214(e)(1)(A); *Lifeline Reform Order*, ¶¶ 368-381; *FCC Compliance Plan Approval*. “Supported services” include voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency services (911 or enhanced 911), to the extent implemented; and toll limitation services for qualifying low-income consumers if the carrier distinguishes between toll and non-toll calls in pricing of the service. *See* 47 C.F.R. §§ 54.101, 54.401(a)(2). Stand Up Wireless has demonstrated that it will offer each of the services supported by the Lifeline program through resale of Sprint PCS’s and Verizon Wireless’s networks¹² throughout the Commonwealth.¹³ Stand Up Wireless asserts that it is committed to offering to eligible Lifeline subscribers a free, basic voice plan that includes all of the supported services. Petition at 13; Tr. at 42-43, 49-50.

Stand Up Wireless offers two basic Lifeline plans: “Stand Up 100” and “Stand Up 250.” Petition at 5, Ex. 3. The plans are free to Lifeline subscribers, with no contracts or fees of any

¹² Stand Up Wireless has contracted with Boomerang Wireless, LLC d/b/a Ready Mobile to obtain access to the Sprint PCS and Verizon Wireless networks. Petition at 3.

¹³ Specifically, Stand Up Wireless asserts that its Designated Service Area covers the service territories of Verizon New England, Inc., Granby Telephone and Telegraph Company, Inc. of Massachusetts, Richmond Telephone Company, Sentinel Tree Telephone Company, Inc., and Taconic Telephone Company. *Id.* at 16.

kind.¹⁴ Petition at 4-5, 7-8; Tr. at 38-39, 42-43, 49-50. Both of these plans include the following equipment and features at no cost to Lifeline subscribers: a handset; voicemail; caller ID; call waiting; call forwarding; and 3-way calling. Petition at 7, Ex. 3. Stand Up 100 includes 100 anytime local and long distance minutes and 100 text messages each month. *Id.* at 5, Ex. 3. Unused minutes and text messages rollover from month to month. *Id.* at 5, Ex. 3. Stand Up 250 includes 250 credits—a combined 250 voice minutes and/or text messages that may be used at anytime. Tr. at 36. In the Stand Up 250 plan, one credit equals one voice minute or one text message, giving subscribers the choice as to how to use their 250 credits. *Id.* Unused Stand Up 250 credits do not rollover. *Id.* Additional credits are available for either plan in the following increments: \$5.00 for 40 credits; \$10.00 for 100 credits; \$20.00 for 250 credits; \$30.00 for 500 credits; and \$50.00 for 1000 credits. Petition at 7, Ex. 3.

Stand Up Wireless also intends to offer three paid Lifeline plans in addition to Stand Up 100 and Stand Up 250: “Stand Up 500,” “Stand Up 1000,” and “Stand Up Unlimited.” *Id.* at 5-6, Ex. 3. Stand Up 500 provides 500 anytime local and long distance voice minutes and 500 text messages each month for \$14.95 (after application of the \$9.25 monthly Lifeline subsidy), plus applicable taxes and fees. *Id.* at 5, Ex. 3. Stand Up 1000 provides 1000 anytime local and long distance voice minutes and 1000 text messages each month for \$29.95 (after application of the \$9.25 monthly Lifeline subsidy), plus applicable taxes and fees. *Id.* at 6, Ex. 3. Stand Up Unlimited provides unlimited anytime local and long distance voice minutes for \$34.95 (after application of the \$9.25 monthly Lifeline subsidy), plus applicable taxes and fees. *Id.* at 6, Ex. 3. Stand Up Unlimited also includes 1000 text messages. RR 4. Unused minutes do not rollover in

¹⁴ Stand Up 100 and Stand Up 250 are free to Lifeline subscribers after the \$9.25 flat rate Lifeline subsidy and the \$3.50 discount the Company voluntarily applies. *See Lifeline Reform Order*, ¶ 58; Tr. at 32-33. These plans are available to non-Lifeline customers at a cost of \$12.75, plus applicable taxes and fees, per month. Tr. at 33. Stand Up Wireless has agreed to comply with the Massachusetts State 911 Department’s surcharge obligation and will not pass that surcharge on to Lifeline subscribers in one of Stand Up Wireless’s free Lifeline plans. IR 1-41; Tr. at 50.

the Stand Up 500, Stand Up 1000, or Stand Up Unlimited plans. *Id.* at 5, 6, Ex. 3. If a Stand Up Wireless Lifeline subscriber chooses one of these plans and fails to pay prior to five days before the commencement of the upcoming service period, the subscriber will be automatically converted to the Stand Up 100 plan for that service period. Petition at 6.

For each of the above-referenced Lifeline plans, Stand Up Wireless subscribers who have used all their allotted minutes will still be able to make outbound calls to Stand Up Wireless customer service as long as their service is active. *Id.* at 6-7. Similarly, calls by Stand Up Wireless subscribers to 911 are always free, “regardless of service activation or availability of minutes.” *Id.* at 7.

The Department finds that Stand Up Wireless’s proposed Lifeline plans satisfy the “supported services” requirements of 47 C.F.R. § 54.401(a)(2). The Department further finds that Stand Up Wireless has demonstrated that it will offer the supported services to eligible low-income subscribers throughout its Designated Service Area in satisfaction of 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. §§ 54.101(a), 54.201(d). *See* Petition at 13-14.

3. Stand Up Wireless’s compliance plan has been approved by the FCC and Stand Up Wireless will provide its Lifeline subscribers with 911 and E911 access.

The FCC approved Stand Up Wireless’s compliance plan on May 25, 2012. *FCC Compliance Plan Approval*. Stand Up Wireless states that it will provide, at no additional charge, 911/E911-compliant handsets to its Lifeline subscribers. Petition at Ex. 5. In addition, Stand Up Wireless states that it will provide its Lifeline subscribers with 911 and E911 access regardless of whether the account associated with the handset is active or suspended. *Id.* Stand Up Wireless also will provide such access regardless of availability of minutes. *Id.* The Department finds that Stand Up Wireless has met the FCC requirements necessary to receive forbearance from the “own facilities” requirement of 47 U.S.C. § 214(e)(1)(A).

4. *Stand Up Wireless will advertise the availability of the supported services in accordance with regulatory requirements.*

Stand Up Wireless must advertise the availability of supported services and charges thereof in media of general distribution throughout its Designated Service Area. 47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2). Stand Up Wireless must also “[p]ublicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.” 47 C.F.R. § 54.405(b). Stand Up Wireless must disclose on all marketing materials describing the service that Stand Up Wireless is the entity offering the service. *Id.* § 54.405(d). Finally, Stand Up Wireless must disclose that the offer is a Lifeline service, Lifeline is a government program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household. *Id.* § 54.405(c). For the reasons discussed below, the Department determines that Stand Up Wireless will satisfy these requirements.

Stand Up Wireless states that it will advertise the availability of its Lifeline service offerings and rates using media of general distribution. Petition at 14-15. Specifically, the core of Stand Up Wireless’s advertising plan is community outreach. Tr. at 46-49. Stand Up Wireless states that over 90 percent of its subscriber enrollment is done in person. Petition at Ex. 5; *see also* Tr. at 47. Stand Up Wireless works with community organizations such as churches and community centers to spread awareness of Lifeline. Tr. at 47. The Company organizes and conducts community outreach events in areas populated by individuals that are likely to qualify for Lifeline. Petition at 15; *see also* Ex. 3, Ex. 4. In addition, Stand Up Wireless states that it has a network of retail partners that it uses to promote the availability of its Lifeline service. Petition at 15. In particular, Stand Up Wireless’s existing retail network includes outlets that the Company believes are frequented by low-income individuals, such as Western Union,

MoneyGram, check cashing locations, and select insurance providers and discount retailers. *Id.* Finally, Stand Up Wireless plans to run newspaper advertisements and distribute brochures describing its Lifeline services to state and local social service agencies. Petition at 15; Tr. at 46. Stand Up Wireless has disclosed its advertising budget for Massachusetts in its first year after designation to the Department. IR 2-13 (*confidential*).

The Department is satisfied that Stand Up Wireless will advertise the availability of supported services in media of general distribution throughout the Commonwealth as required by federal ETC requirements. 47 U.S.C. § 214(e)(1)(B); 47 C.F.R. §§ 54.201(d)(2), 54.405(b), (d). The Company will comply with the marketing disclosure requirements of 47 C.F.R. 54.405(c). Petition at 15-16. The Company has also agreed to provide to the Department copies of all advertising and marketing materials distributed in Massachusetts to promote Lifeline services. *See Virgin Mobile ETC Order* at 9-10 (“ETCs must provide the Department with copies of all advertising and marketing materials distributed in Massachusetts to promote Lifeline services.”); Tr. at 47.

5. *Stand Up Wireless is financially and technically capable of providing the supported services.*

A state commission may not designate a common carrier as an ETC unless the carrier has demonstrated that it is financially and technically capable of providing the supported services. 47 C.F.R. § 54.201(h). The Department finds that Stand Up Wireless has met these requirements.

The relevant considerations to show financial and technical capability include: “whether the applicant previously offered services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has

been subject to enforcement action or ETC revocation proceedings in any state.” *Lifeline Reform Order*, ¶ 388.

Stand Up Wireless has provided wireline service to Lifeline and non-Lifeline consumers since 1998 and has provided wireless service since April 2011. Petition at 19. Indeed, Stand Up Wireless is currently designated as a wireless Lifeline ETC in eight states. Tr. at 11. Company management has significant experience in the telecommunications industry, particularly in the prepaid wireless market. Petition at Ex. 9. Stand Up Wireless does not rely exclusively on USF support, as it receives revenue from its non-Lifeline subscribers. Petition at 19; Tr. at 20, 22-23 (*confidential*); *see also* RR 3 (*confidential*). Stand Up Wireless also has access to capital from its majority owner, Milestone Partners, a private equity firm. Petition at 19; Tr. at 22 (*confidential*). In addition, Stand Up Wireless states that it has not been subject to any enforcement action at the FCC or in any state, nor have any ETC designations held or applied for by Stand Up Wireless been rescinded, revoked, denied, or terminated by the FCC or by any state. IR 1-3, 1-4, 1-7; Petition at 19. Finally, Stand Up Wireless states that it has the capability to provide Lifeline service to Massachusetts consumers within one month of receiving a study area code from the Universal Service Administrative Company (“USAC”). Tr. at 58. Stand Up Wireless agrees to provide advance notice to the Department if it ceases to provide Lifeline in Massachusetts for whatever reason, and agrees to comply with the Mass Migration Requirements. Tr. at 35; *see* D.T.E. 02-28, *Order* (Aug. 7, 2002). As a result of the foregoing, the Department finds that Stand Up Wireless has demonstrated that it is financially and technically capable of providing the supported services in compliance with 47 C.F.R. § 54.201(h).

6. *Stand Up Wireless will comply with additional FCC requirements; the procedures and requirements set forth in the Lifeline Reform Order; and additional requirements imposed by the Department.*

The Department determines that Stand Up Wireless is prepared to comply with additional FCC requirements, the procedures and requirements set forth in the *Lifeline Reform Order*, and additional requirements that the Department imposes.

a. Additional FCC Requirements

Additional FCC requirements include: (1) a certification by the carrier that it will comply with the service requirements applicable to the support it receives; (2) demonstration by the carrier of its ability to remain functional in emergency situations; (3) demonstration by the carrier that it will satisfy applicable consumer protection and service quality standards; and (4) submission by the carrier of information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers. 47 C.F.R. §§ 54.202(a)(1)(i), (2), (3), (5).

Stand Up Wireless states it will serve all consumers in locations served by its underlying providers.¹⁵ Petition at 17. The Company commits to complying with the service requirements applicable to the support it receives. Petition at 17; *see* 47 C.F.R. § 54.202(a)(1)(i).

Stand Up Wireless also asserts that it has the ability to remain functional in emergency situations. Petition at 17-18. Stand Up Wireless states that it is able to provide its subscribers the same ability to remain functional in emergency situations as its underlying carriers, Sprint PCS and Verizon Wireless, currently provide to their own subscribers. *Id.* According to Stand Up Wireless, Sprint PCS and Verizon Wireless have battery backup power at their facilities to ensure functionality without an external power source. *Id.* at 17. Finally, Stand Up Wireless

¹⁵ At the Department's request, Stand Up Wireless has stated that it will not offer Lifeline service to a consumer if the Company finds that the consumer resides in an area where Stand Up Wireless cannot provide sufficient wireless service. Tr. at 39-40.

states that its underlying providers are capable of rerouting traffic around damaged facilities and managing traffic spikes resulting from emergency situations. *Id.*

Stand Up Wireless states that it will satisfy applicable state and federal consumer protection and service quality standards in accordance with 47 C.F.R. § 54.202(a)(3). Petition at 18; IR 1-33. In particular, Stand Up Wireless promises to follow CTIA's Consumer Code for Wireless Service. Petition at 18. In addition, Stand Up Wireless has agreed to additional consumer protection requirements, as discussed below. *See infra* pp. 15-16.

Consistent with 47 C.F.R. § 54.202(a)(5), Stand Up Wireless has submitted to the Department detailed information describing the terms and conditions of the Lifeline service plans it intends to offer in Massachusetts. Petition at 5-8, Ex. 3. Stand Up Wireless has agreed to notify the Department of any changes to the rates, terms, or conditions of the Company's Lifeline service. *See infra* p. 16.

In view of these representations and commitments by Stand Up Wireless, the Department finds that the Company is prepared to comply with the additional FCC requirements.

b. Lifeline Reform Order Procedures and Requirements

Procedures and requirements established by the FCC in the *Lifeline Reform Order* include:

- 1) screening applicants using the National Lifeline Accountability Database to be established as set forth in 47 C.F.R. §§ 54.404(b)(1)-(10);
- 2) complying with the carrier's obligations to offer Lifeline, including de-enrollment requirements, when effective, as established in 47 C.F.R. §§ 54.405(a)-(e)(1)-(4);
- 3) certifying that it is prepared to comply with the subscriber eligibility and determination and certification requirements established in 47 C.F.R. §§ 54.410(a)-(g) to the extent applicable;
- 4) complying with annual certifications required by ETCs established in 47 C.F.R. §§ 54.416(a), (b);

- 5) complying with record keeping requirements established in 47 C.F.R. § 54.417;
- 6) complying with audit requirements, to the extent applicable, established in 47 C.F.R. § 54.420; and
- 7) complying with annual reporting requirements established in 47 C.F.R. § 54.422.

Stand Up Wireless has indicated that it will comply with these procedures and requirements. *See* Petition at 1-2, 19-20, Ex. 1, Ex. 5. In view of the record, the Department finds that Stand Up Wireless will comply with the *Lifeline Reform Order*.

c. Department Requirements

Stand Up Wireless has also agreed “to comply with all the rules and regulations that the Department may lawfully impose upon the Company’s provision of [Lifeline service].” Petition at 20; *see also* IR 1-40. In addition, Stand Up Wireless will comply with the applicable requirements established by the Department in the *Virgin Mobile ETC Order* and the *T-Mobile ETC Order*. *See* Petition at 20; *In the Matter of T-Mobile Ne. LLC Petition for Ltd. Designation as an Eligible Telecomms. Carrier*, D.T.C. 12-4, *Order Approving Petition* (Aug. 30, 2012). In particular, Stand Up Wireless has agreed to the following:

- 1) providing quarterly reporting to the Department of subscriber accounts terminated for inactivity (Skogen Aff., Aug. 23, 2012);
- 2) providing quarterly reporting of consumer complaints to the Department regarding the Company’s Lifeline service and participating in dispute resolution by the Department’s Consumer Division (Skogen Aff., Aug. 23, 2012; Tr. at 44);
- 3) including notice of the Department’s dispute resolution procedures for Lifeline-related issues at the point of sale and via the Company’s customer service call centers (Tr. at 44);
- 4) providing reporting to the Department of USF support received for Massachusetts consumers (Skogen Aff., Aug. 23, 2012);
- 5) filing with the Department, within 60 days of the approval of its Petition, its terms and conditions of service, applicable to qualifying Lifeline service subscribers (*id.*);

- 6) notifying the Department of any changes to the rates, terms, or conditions of the Company's Lifeline service that clearly benefit Lifeline subscribers (e.g., the *only* change is additional minutes or reduced cost) (Tr. at 41-42);
- 7) giving the Department 30 days advance notice of any changes to the rates, terms, or conditions of the Company's Lifeline service that do not clearly and solely benefit all of its Massachusetts Lifeline subscribers (*id.*);
- 8) including the Department's contact information for consumer complaints on the Company's Lifeline application, on Lifeline subscriber receipts, in the Company's Lifeline terms and conditions, and in its marketing materials for Lifeline service. (Skogen Aff., Aug. 23, 2012; *see* Tr. at 45-46);
- 9) providing Public Safety Answering Points self-certification to the Department (Skogen Aff., Aug. 23, 2012); and
- 10) providing annually the certification of an officer of the Company that the Company (a) has policies and procedures in place to review consumers' documentation of income- and program-based eligibility; (b) is in compliance with all federal Lifeline certification procedures; and (c) has obtained a valid certification form for each subscriber for whom the carrier seeks Lifeline reimbursement (*id.*).¹⁶

The Department concludes that Stand Up Wireless is prepared to comply with the additional FCC requirements, the procedures and requirements set forth in the *Lifeline Reform Order*, and the additional requirements imposed by the Department.

7. Stand Up Wireless's designation as an ETC is consistent with the public interest, convenience, and necessity.

Prior to designating a common carrier as an ETC, the Department must make an affirmative finding that such designation is "consistent with the public interest, convenience and necessity." *Universal Service Order*, ¶ 40; *Virgin Mobile ETC Order* at 10; *Petition of VCI Co. for designation as an eligible telecomms. carrier in Mass. pursuant to Sections 214(e)(2) and 214(e)(6) of the Commc'ns Act of 1934, as amended*, D.T.E./D.T.C. 07-8, *Order* at 11-12 (May 21, 2008) ("*VCI Order*"). Stand Up Wireless bears the burden of proving its Petition is in the

¹⁶ This information must also be provided to the FCC and USAC under 47 C.F.R. § 54.416(a).

public interest. *See Universal Service Order*, ¶ 44. For the reasons discussed below, the Department finds that granting Stand Up Wireless limited ETC designation is in the public interest.

“In analyzing whether a petition for ETC designation is in the public interest, the Department considers multiple factors, including the benefits of increased consumer choice and the unique advantages and disadvantages of the carrier’s service offering.” *Virgin Mobile ETC Order* at 10; *see also Universal Service Order*, ¶¶ 40-44. This test must be applied in a manner consistent with the principles of preserving and advancing universal service and ensuring that quality services are available at just, reasonable, and affordable rates. 47 U.S.C. §§ 254(b)(1)-(2). Other factors that may be relevant in analyzing whether ETC designation is in the public interest include: the availability of new choices for consumers, affordability; quality of service, service to unserved or underserved consumers, comparison of benefits relative to public cost, and considerations of material harm. *See Universal Service Order*, ¶ 40, n.111; *Virgin Mobile ETC Order* at 10.

The Department has recognized “the importance of Lifeline [] services for low-income Massachusetts residents, and [it] considers increased competition for Lifeline [] customers to be a worthy goal.” *VCI Order* at 15. New ETCs in a state generally encourage existing ETCs to offer better service and terms to their subscribers. *See In the Matter of i-wireless, LLC Amended Petition for Designation as an Eligible Telecomms. Carrier*, WC Docket No. 09-197, *Order*, ¶ 27 (rel. June 13, 2012). However, as the FCC notes, “the value of increased competition, by itself, is unlikely to satisfy the public interest test.” *Universal Service Order*, ¶ 44. As each petitioner seeking ETC designation will likely be unique, the Department’s analysis is necessarily fact-specific to each petition. *Id.*, ¶ 46. Accordingly, the Department evaluates the

particular advantages or disadvantages of the services offered by Stand Up Wireless, their affordability, and considerations of material harm in determining whether designating Stand Up Wireless as an ETC is in the public interest. *See id.*

Stand Up Wireless asserts that it satisfies the public interest standard by providing low-income consumers low prices and high quality telecommunications services that they previously were unable to obtain. Petition at 20-21. Specifically, Stand Up Wireless maintains that its Lifeline offerings include larger local calling areas and the convenience of a mobile phone, neither of which are offered by traditional wireline carriers. *Id.* at 21, 22. Stand Up Wireless states that its Lifeline service will provide eligible consumers with this convenience and flexibility without the burdens imposed by traditional wireless carriers, such as credit checks and contracts. *Id.* at 21.

The Company's Stand Up 100 and Stand Up 250 plans are free to eligible Lifeline subscribers. *Id.* at 5. The Stand Up 100 plan provides 100 anytime voice minutes and 100 text messages and the Stand Up 250 plan offers a combined 250 anytime voice minutes and/or text messages, respectively. Petition at 5; Tr. at 36. Each of the Company's Lifeline plans also includes a handset, voicemail, caller ID, call waiting, call forwarding, and 3-way calling at no cost to the Lifeline subscriber. Petition at 7. Stand Up Wireless points to the separate pools of voice minutes and text messages in the Stand Up 100 plan as a novel benefit to consumers, given that other Lifeline wireless providers generally deplete voice minutes when text messages are used. *Id.* at 4. The Company states that its designation as an ETC would "promote competition and innovation," spurring other Lifeline carriers to improve services to consumers. *Id.* at 23.

Importantly, Stand Up Wireless describes an additional step it has taken to prevent waste, fraud, and abuse of the Lifeline program.¹⁷ Stand Up Wireless has contracted with CGM, LLC (“CGM”), a third party Lifeline services vendor. Petition at 10; Tr. at 51-54. CGM will validate Stand Up Wireless’s subsidy request data to prevent duplicate subsidies and inactive lines receiving subsidies. Petition at 10; Tr. at 51-52. CGM currently validates Stand Up Wireless’s subsidy requests using only Stand Up Wireless data, meaning that CGM verifies that Stand Up Wireless is not already providing Lifeline service to a prospective subscriber. *See* Tr. at 51-52. However, CGM contracts with other ETCs and Stand Up Wireless states that CGM will soon be able to check for duplicates across all of those ETCs. *See id.* at 52-53. Stand Up Wireless assumes full responsibility for CGM’s conduct as it relates to Stand Up Wireless’s data. Tr. at 54.

The Department finds that Stand Up Wireless’s designation as an ETC is consistent with the public interest, convenience, and necessity. *See* 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.202(b). The Company’s Stand Up 100 and Stand Up 250 plans are free offerings, enabling the Company to expand wireless service to low-income consumers throughout the Commonwealth at no cost to those consumers. Petition at 5; *see* 47 U.S.C. § 254(b)(1). Stand Up Wireless is committed to offering a free, basic Lifeline service to eligible consumers, without contracts or fees of any kind, on an ongoing basis. Tr. at 43. Stand Up Wireless is also committed to offering the same services and benefits to Massachusetts Lifeline subscribers as the Company offers in other jurisdictions. *Id.* at 41. Additionally, the availability of the Stand Up 500, Stand Up 1000, and Stand Up Unlimited plans will enhance consumer choice for low-income consumers in Massachusetts. *See* Petition at 5.

¹⁷ *See Lifeline Reform Order*, ¶ 219 (highlighting the FCC’s concerns about waste, fraud, and abuse in the Lifeline program and seeking cooperation from ETCs).

Stand Up Wireless’s ability to offer two distinct free Lifeline plans is a benefit to low-income consumers in Massachusetts. Many wireless Lifeline providers offer low-income consumers only one free option, but Stand Up Wireless’s variety provides low-income consumers a convenient choice. With Stand Up Wireless, consumers whose needs change, but who still want a free service option, are able to switch plans and stay with Stand Up Wireless, rather than going through the process of changing Lifeline providers. *See* IR 1-12(c). Stand Up Wireless’s network of retail partners, such as Western Union and MoneyGram, will enable its Lifeline subscribers to easily change plans. *See* Petition at 15. Moreover, the Stand Up 100 plan, specifically, offers a unique service to low-income consumers in Massachusetts. Where most Lifeline wireless providers offer only one, combined pool of voice minutes and text messages, Stand Up 100 offers separate pools of voice minutes and text messages. *Id.* at 4, 5. Thus, where other Lifeline providers reduce the amount of voice minutes available when one text message is used, the Stand Up 100 plan “preserves critical voice minutes for consumers who utilize text messaging.” *Id.* at 4. The Department finds that this option provides choice for consumers and is a unique characteristic of Stand Up Wireless’s proposed Lifeline service. *See Universal Service Order*, ¶ 40, n.111; *Virgin Mobile ETC Order* at 10.

Further, Stand Up Wireless plans to conduct outreach to expand consumer awareness of the Lifeline program. The Department finds that this is a benefit of Stand Up Wireless’s presence in the Commonwealth as it will likely provide service to previously underserved or unserved low-income individuals. The increased consumer choice that Stand Up Wireless’s presence will provide will benefit low-income consumers. The Department agrees with Stand Up Wireless that the Company’s presence will put pressure on other wireless ETCs to tailor their service offerings more narrowly to meet consumer demand. *See Virgin Mobile Order* at 11.

Upon examination of the record, the Department finds that Stand Up Wireless's Lifeline offerings and the additional competitive choice created thereby are consistent with the public interest. Accordingly, Stand Up Wireless has met its obligation to establish that its ETC designation is consistent with the public interest, convenience, and necessity.

C. Conclusion

Based on the Department's review of the evidentiary record, the Department finds that Stand Up Wireless has satisfied the ETC service requirements and that Stand Up Wireless's limited designation as a Lifeline-only ETC is consistent with the public interest, convenience, and necessity.

IV. ORDER

Accordingly, after notice, hearing, and consideration, it is hereby

ORDERED: Consistent with the above, and subject to the aforementioned conditions, the Department hereby GRANTS the Petition of Global Connection Inc. of America d/b/a STAND UP WIRELESS for Limited Designation as an Eligible Telecommunications Carrier for Purposes of Low-Income Support Only;

FURTHER ORDERED: In accordance with 47 C.F.R. § 54.401(d), Global Connection Inc. of America d/b/a STAND UP WIRELESS must file information with the Universal Service Administrative Company demonstrating that the plans of Global Connection Inc. of America d/b/a STAND UP WIRELESS meet the criteria set forth in 47 C.F.R. § 54.401 and describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plans, additional charges, if any, for toll calls, and rates for such plans.

By Order of the Department:

/s/
Geoffrey G. Why
Commissioner

RIGHT OF APPEAL

Appeals of any final decision, order, or ruling of the Department of Telecommunications and Cable may be brought pursuant to applicable state and federal laws.