



## COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 18-4

December 19, 2019

Petition of Crocker Communications, Inc. for Designation as an Eligible Telecommunications Carrier

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### ORDER

#### **I. INTRODUCTION**

Crocker Communications, Inc. (“Crocker” or “the Company”) has requested that the Department of Telecommunications and Cable (“Department”) allow it to relinquish its Eligible Telecommunications Carrier (“ETC”) designation pursuant to 47 U.S.C. § 214(e)(4). The Department grants Crocker’s request for the reasons set forth below.

#### **II. PROCEDURAL HISTORY**

On February 15, 2019, the Department granted Crocker’s petition for designation as an ETC in a limited geographical service area for purposes of receiving funds that were provisionally awarded to it through the Federal Communications Commission’s (“FCC”) Connect America Fund Phase II Auction (“CAF II”). *Petition of Crocker Commc’ns, Inc. for Designation as an Eligible Telecomms. Carrier*, D.T.C. 18-4, *Order Approving Petition* (Feb. 15, 2019). Specifically, the Department designated Crocker as an ETC so that it could receive high cost funds in order to build out a network offering voice and broadband services in unserved and underserved areas comprising 53 census blocks in Sandisfield and Tolland.<sup>1</sup> *Id.* at 1-2.

<sup>1</sup> See *Petition of Crocker Commc’ns, Inc. for Designation as an Eligible Telecomms. Carrier*, D.T.C. 18-4, *Petition* at Exh. A (Sept. 27, 2018).

On August 27, 2019, Crocker filed a petition requesting the relinquishment of the Company's ETC designation ("Petition"). Petition at 1. The Department issued a notice, affording an opportunity to request a hearing, request to intervene in the proceeding, or comment on the Petition. *See Petition of Crocker Commc 'ns, Inc. for Designation as an Eligible Telecomms. Carrier*, D.T.C. 18-4, *Notice* (Nov. 13, 2019). The Department received no requests for a hearing, no intervention requests, and no comments in this proceeding. Any right to a hearing in this matter is thus waived. *See* G.L. c. 30A, § 10.

### III. ANALYSIS AND FINDINGS

The Department finds that Crocker has met the standard for relinquishment of an ETC designation under 47 U.S.C. § 214(e)(4), and the Department's requirements for discontinuance of Lifeline service in Massachusetts. 47 U.S.C. § 214(e)(4); *Investigation by the Dep't on its Own Motion into the Implementation in Mass. of the FCC's Order Reforming the Lifeline Program*, D.T.C. 13-4, *Order Implementing Requirements* at 21, Appendix (Aug. 1, 2014) ("13-4 Order").

#### A. Federal Requirements

Section 214(e)(4) provides the following:

A State commission . . . shall permit an [ETC] to relinquish its designation as such a carrier in any area served by more than one [ETC]. An [ETC] that seeks to relinquish its [ETC] designation for an area served by more than one [ETC] shall give advance notice to the State commission . . . of such relinquishment. Prior to permitting a telecommunications carrier designated as an [ETC] to cease providing universal service in an area served by more than one [ETC], the State commission . . . shall require the remaining [ETC(s)] to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining [ETC]. The State commission . . . shall establish a time, not to exceed one year after the State commission . . . approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.

47 U.S.C. § 214(e)(4); *see also* 47 C.F.R. § 54.205. Thus, for the Department to grant an ETC's petition to relinquish an ETC designation: (1) there must be more than one ETC serving the service area; (2) the ETC must give the Department advance notice of its intent to relinquish its ETC designation; (3) the remaining ETC(s) in the service area must ensure that all of the relinquishing ETC's customers will continue to be served; and (4) to the extent that additional facilities are required to serve any of those customers, there must be sufficient notice to allow the remaining ETC(s) to construct or purchase those additional facilities. Crocker has met this standard.

First, Crocker's entire designated service area is served by more than one ETC. *See* 47 U.S.C. § 214(e)(4). Crocker's designated service area covers 53 census blocks within the towns of Sandisfield and Tolland, Massachusetts. *See* Petition at 2. These towns are served by Verizon New England Inc. d/b/a Verizon Massachusetts ("Verizon") as their incumbent local exchange carrier. *Id.* at 6-7. Crocker correctly states that Verizon has been designated as an ETC in the towns. *Id.*; *Investigation by the Dep't of Telecomms. & Energy on its own motion concerning (1) designation of eligible telecomms. carriers, pursuant to § 102 of the Telecomms. Act of 1996 ("Act"); (2) participation in the FCC's modified Lifeline program & acceptance of increased fed. funding, pursuant to 47 C.F.R. §§ 54.400-54.417 et seq.; & (3) participation in the FCC's program for discounted intrastate rates for telecomms. servs. for rural health care providers, pursuant to § 254(h) of the Act, D.T.E. 97-103, Order (Dec. 23, 1997).* Given Verizon's operation as an ETC in the designated service area, Crocker has persuaded the Department that this requirement has been met.

Second, Crocker gave the Department advance notice of its intent to relinquish its ETC designation. *See* 47 U.S.C. § 214(e)(4). Crocker filed the Petition on August 27, 2019, requesting

to relinquish its designation as of October 31, 2019. Petition at 3. Further, Crocker has not yet begun to operate as an ETC, as it has not yet built out its network in the service area. *See id.* The Department finds that Crocker's notice is sufficient.

Third, Crocker's customers "will continue to be served" upon the Company's relinquishment of its ETC designation. 47 U.S.C. § 214(e)(4). Crocker confirms that it does not have any Lifeline customers in the service area, and that it will continue to serve its non-Lifeline customers in the service area upon the relinquishment of its ETC designation. E-mail from Deborah A. Basile, Doherty, Wallace, Pillsbury and Murphy, P.C., to Rosalie Fazio-Eynullayeva, Hearing Officer, Mass. Dep't of Telecomms. & Cable (Dec. 12, 2019, 16:25 EST) (on file with the Department); *see also* Petition at 7. Given that Crocker will continue to serve its existing customers in the service area, the Department finds that Crocker has met the requirement that its customers in the service area "continue to be served." 47 U.S.C. § 214(e)(4).

Fourth, adequate facilities exist for continued service to Crocker's customers. *See* 47 U.S.C. § 214(e)(4); Petition at 8. As noted above, Crocker does not have any Lifeline customers in the service area, and will continue to serve its non-Lifeline customers in the service area upon the relinquishment of its ETC designation. Accordingly, the Department need not require notice to permit the purchase or construction of any additional facilities.<sup>2</sup>

As a result of the foregoing, the Department finds that Crocker has met the federal standard for relinquishment of its ETC designation under 47 U.S.C. § 214(e)(4).

#### B. State Requirements

Under the Department's 13-4 Order, an ETC that plans to cease offering Lifeline service in Massachusetts must, at a minimum, (1) notify its Lifeline customers and the Department 60

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<sup>2</sup> The Department therefore need not establish a time within which such purchase or construction shall be completed. *See* 47 U.S.C. § 214(e)(4).

days in advance of the ETC's planned discontinuance of Lifeline service in Massachusetts and (2) work in good faith with its Lifeline customers and the Department to facilitate smooth transition of customers to alternative ETCs of the customers' choice ("13-4 Requirements"). 13-4 Order at 21, Appendix. The Department finds that Crocker has met this standard.

The Department finds that Crocker has given the Department sufficient notice of the relinquishment of its ETC designation in satisfaction of the 13-4 Requirements, and given that Crocker does not yet have any Lifeline customers, there are no other parties to whom it must give notice. Crocker filed the Petition, notifying the Department of its planned ETC designation relinquishment on August 27, 2019, 65 days before the Company's intended relinquishment. Petition at 1. This satisfies the requirement to give 60-days' advance notice to the Department under the 13-4 Requirements.

Since Crocker has no Lifeline subscribers, the Department need not address the requirement that Crocker work in good faith with its Lifeline subscribers and the Department to facilitate smooth transition of such subscribers to alternative ETCs of the customers' choice.

The Department finds that Crocker has met the Department's requirements for discontinuance of Lifeline service in Massachusetts.

#### **IV. CONCLUSION**

Crocker has met the federal standard for relinquishment of ETC designation, and has met the Department's requirements for discontinuance of Lifeline service in Massachusetts. Accordingly, the Department grants Crocker's Petition.

#### **V. ORDER**

After notice, opportunity for a full and fair hearing, and consideration, it is hereby

ORDERED: that the Department GRANTS Crocker Communications, Inc.'s Petition to relinquish its ETC Designation in Massachusetts, effective October 31, 2019; and it is

FURTHER ORDERED: that Crocker Communications, Inc. SHALL TRANSMIT a copy of this Order to the Universal Service Administrative Company.

By Order of the Department:



Karen Charles Peterson, Commissioner

#### **RIGHT OF APPEAL**

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of Department Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may also be brought pursuant to 47 C.F.R. § 76.944.