

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Petition of American)
Broadband and Telecommunications)
Company, for Designation as a) Case No. 12-1714-TP-UNC
Low-Income Competitive Eligible)
Telecommunications Carrier.)

FINDING AND ORDER

The Commission finds:

- (1) On May 7, 1997, the Federal Communications Commission (FCC) issued a Report and Order in CC Docket 96-45 (96-45), *In the Matter of the Federal-State Board on Universal Service*, adopting rules to promote universal service consistent with the requirements of the Telecommunications Act of 1996 (1996 Act). In its 96-45 decision, the FCC, among other things, set forth parameters for the states to determine those carriers eligible to receive federal universal service support.
- (2) Consistent with the FCC's 96-45 decision, the Commission, on November 20, 1997, in Case No. 97-632-TP-COI (97-632), *In the Matter of the Commission Investigation of the Intrastate Universal Service Discounts*, adopted filing procedures for carriers seeking status as either a rural or nonrural eligible telecommunications carrier for the purpose of receiving federal universal service funding.
- (3) On February 6, 2012, the FCC released a Report and Order in *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 (*Lifeline Reform Order*),

adopting reforms that address waste, fraud, and abuse with regard to the federal Universal Service Fund (USF).

- (4) On May 23, 2012, the Commission issued a Finding and Order in Case No. 10-2377-TP-COI, *In the Matter of the Commission Investigation into the Provision of Nontraditional Lifeline Service by Competitive Eligible Telecommunications Carriers (10-2377 Order)*. In that Finding and Order, the Commission took steps to prevent waste, fraud, and abuse of the federal USF with regard to the provision of nontraditional Lifeline service.
- (5) On May 31, 2012, American Broadband and Telecommunications Company (AB&T), an Ohio company with Eligible Telecommunications Carrier (ETC) designation to provide wireline Lifeline service in Ohio, filed an application seeking to expand its designation as an ETC to provide wireless Lifeline service in Ohio. The application was filed pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended, 47 C.F.R. 54.101-54.207, and Rule 4901:1-6-19, Ohio Administrative Code (O.A.C.). AB&T states that it seeks the expanded ETC designation only for purposes of Subpart E of 47 C.F.R. 54, to address universal service support for low-income customers, and only insofar as those regulations apply to Lifeline service support.

AB&T emphasizes that being designated as a wireless ETC will promote the public interest. Specifically, AB&T states that expansion of its ETC designation to include a wireless offering will further the 1996 Act's purpose of promoting competition by increasing the availability of advanced telecommunications services to qualifying low-income subscribers. In addition, AB&T contends that it has previously demonstrated, via its wireline ETC offerings, that it has the managerial and financial resources and commitment to provide communications services to underserved communities throughout Ohio.

- (6) AB&T states that, upon receiving its expanded ETC designation from the Commission, it will offer its wireless Lifeline services

through a combination of resale agreements with Sprint PCS and Verizon Wireless. AB&T asserts that it will provide all of the services supported by the universal service program throughout its service area, in conformance with 47 C.F.R. 54.101(a), as recently modified by the *Lifeline Reform Order* and the Commission's rules. AB&T will market its wireless Lifeline services under the name "American Assistance for Lifeline Customers."

AB&T indicates it will only provide resold wireless services at this time. As a non-facilities based provider, AB&T notes that it has received forbearance of the facilities requirement for ETCs from the FCC through the *Lifeline Reform Order*. In addition, AB&T filed its compliance plan with the FCC's Wireline Competition Bureau as required by the *Lifeline Reform Order*. The compliance plan was approved on May 25, 2012.

- (7) AB&T states that its billing system calculates each minute used and the remaining voice and text units available. AB&T will provision voice minutes and text messages separate from one another. As such, voice minutes and text messages are not interchangeable. A customer inquiring about his or her remaining available monthly balance will receive the balance in remaining airtime minutes or remaining text messages only, not in remaining dollars. A customer may elect to receive a free text warning to indicate when a balance of voice or text time is about to expire.

AB&T indicates that it will provide E9-1-1 compliant handsets to its Lifeline subscribers free of charge. AB&T states that, upon activation of Lifeline service, it will immediately provide its Lifeline customers with access to 9-1-1 and E9-1-1 services. According to AB&T, its Lifeline subscribers will retain access to E9-1-1 emergency services without regard to their remaining available minutes and for 72 hours after an account is deactivated. Finally, AB&T emphasizes that it will comply with the Commission's *10-2377 Order* with respect to billing and collection of the wireless 9-1-1 charge established in

Section 4931.61, Revised Code, and will remit such funds collected to the Ohio 9-1-1 Coordinator, pursuant to Section 4931.82, Revised Code.

AB&T offers two wireless Lifeline service plans with no connection or activation charge assessed for either plan. Under the Lifeline Wireless Essentials 250 plan, AB&T provides its Lifeline subscribers with 250 anytime voice minutes per month and 250 text messages per month at no charge. Under the Lifeline Wireless Essentials 500 plan, Lifeline subscribers receive 500 voice minutes and 500 text messages per month at a monthly cost of \$10.70. The monthly rate for the second plan includes the subscriber's \$9.25 monthly Lifeline benefit, which is credited toward the plan's regular rate of \$19.95 per month. In addition, for \$5.99, a customer may add 100 voice minutes and 100 text messages to either of AB&T's Lifeline plans. For \$12.99, a customer may add 300 voice minutes and 250 text messages to either plan. According to AB&T, subscribers may make payments on the Lifeline Wireless Essentials 500 plan by calling its interactive voice response system at any time and using a debit or credit card. Subscribers may also make payments at any Cash America location, Speedway gasoline station, or at other convenience store locations throughout Ohio. AB&T represents that if a customer defaults on the Lifeline Wireless Essentials 500 plan, AB&T will automatically convert the customer's Lifeline service to the Lifeline Wireless Essential 250, i.e., free plan.

- (8) AB&T contends that it will provide all prospective Lifeline customers with printed information describing its Lifeline program prior to the time of enrollment. This information will explain Lifeline eligibility requirements, emphasize that no more than one Lifeline benefit is available per household, and provide instructions for enrolling in the Lifeline program. Alternatively, potential customers may be directed, via AB&T's literature or advertising, to a toll-free telephone number and

AB&T's website, which will contain a link to information regarding its Lifeline offerings and eligibility.

AB&T offers in-person enrollment on a limited basis. Presently, AB&T only offers in-person enrollment at the Cuyahoga and Lucas county offices of the Ohio Department of Job and Family Services where an AB&T representative is available to meet with prospective Lifeline subscribers. Prospective customers also have the option of returning a completed and signed application along with all required supporting documentation to AB&T by mail, fax, e-mail, or other electronic means. Electronic signatures must meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 USC Sec. 7001-7006, as well as all applicable state laws. A potential Lifeline customer does not have to initiate service with AB&T or activate a handset prior to Lifeline approval.

- (9) AB&T states that, consistent with the FCC's *Lifeline Reform Order* and the Commission's *10-2377 Order*, applicants for Lifeline service will be required to self-certify that: a) they receive only one Lifeline benefit per household; and b) they are the head of their respective households. Additionally, consistent with the FCC and Commission orders, Lifeline applicants will be required to provide documentation of income eligibility or qualifying program participation at the time of enrollment. Going forward, AB&T will require its Lifeline subscribers to annually certify their continuing Lifeline eligibility. AB&T will require that its Lifeline subscribers make such certifications under penalty of perjury.

AB&T will provide its Lifeline customers with the necessary recertification form prior to their service anniversary date. The form will explain what actions the customer must take to retain Lifeline benefits, when such benefits may be terminated by AB&T, and how to contact AB&T. Additionally, the form will remind customers that Lifeline is a federal benefit that is only available on a one line per household basis and will explain

that a "household" means any individual or group who live together at the same address and share expenses. Further, the form will state that a household may not receive Lifeline service from multiple Lifeline providers and will indicate that violation of these rules will result in immediate de-enrollment from the Lifeline program and may provide the basis for federal criminal prosecution. Customers will have no less than 60 days to complete the recertification form and return it to AB&T. AB&T will mail the recertification form to the address the customer has on record with AB&T. Any customer that fails to recertify his or her continuing eligibility to participate in the Lifeline program will be de-enrolled from the Lifeline program. AB&T will provide notice to the customer prior to de-enrollment and will afford the customer an additional 30-day period to submit the recertification form. Finally, AB&T has indicated that it will comply with all FCC and Commission certification and verification requirements via an AB&T officer certifying to such compliance under penalty of perjury.

As a supplement to its certification and verification procedures, AB&T states that it will implement measures to prevent duplicate Lifeline benefits from being awarded to the same household. These measures include: a) AB&T representatives emphasizing that only one Lifeline phone is permitted per household during all interactions involving prospective customers, whether through calls to a call center or during direct sales contact in person; b) AB&T reinforcing the limit of one Lifeline benefit per household in marketing materials and on its website; and c) AB&T complying with other marketing requirements in the FCC's *Lifeline Reform Order*. Such compliance shall include: informing prospective customers that Lifeline is a government benefit program only available to eligible subscribers; explaining the documentation that is necessary for enrollment; and emphasizing that applicants who knowingly make false statements to obtain Lifeline service are subject to fine, imprisonment, or de-enrollment from the

program. Such information will be on AB&T's website during the customer information/education cycle.

In addition to the aforementioned measures, AB&T states that it will cooperate with federal and state regulators to do the following:

- Share with state commissions, the FCC and/or the Universal Service Administrative Company (USAC) any data that will enable these entities to determine whether a subscriber is enrolled in more than one Lifeline program. Specifically, AB&T will make available state-specific customer data, including name and address, to the Commission, FCC and/or USAC so that these entities can determine whether an existing Lifeline customer receives multiple Lifeline services, and will participate in such a duplicate resolution process, provided that costs for participation are reasonable or defrayed through the universal service contribution mechanisms;
- Promptly investigate any notification that AB&T receives from the Commission, FCC and/or USAC that one of its customers already receives Lifeline service from another Lifeline service provider; and
- Immediately terminate a customer's Lifeline service and no longer report that customer on USAC Form 497 if AB&T, through its own investigation, concludes or the Commission, FCC and/or USAC concludes that the customer is receiving multiple Lifeline benefits in violation of Commission and FCC regulations.

Before initiating service for a prospective customer, AB&T states that it will check the name and address of the Lifeline

applicant, as well as the personal information required for verification, against its database to determine if any of this information is associated with a customer who already receives Lifeline-supported service from AB&T. AB&T will then review the application to determine whether the applicant is attempting to receive Lifeline-supported service for more than one handset or wireline phone associated with the applicant's address. Additionally, AB&T will check the applicant's name and address against the National Lifeline Accountability Database once that database is operational. If AB&T finds either the applicant's name or address to be a duplicate, AB&T will require the applicant to certify using the appropriate form developed by USAC that he or she lives at a multiple-household address.

AB&T will process and validate its subscriber data prior to requesting any Lifeline reimbursement. Such validation shall be consistent with all USAC-established validation procedures. AB&T asserts that these steps will ensure that a household already receiving a Lifeline benefit for AB&T service will not receive a second Lifeline benefit for the same month.

AB&T managers experienced in Lifeline administration will process all new Lifeline applications. Consistent with the FCC's *Lifeline Reform Order*, AB&T will not retain any verification documentation obtained by it during the application process, but rather, will enter into its database that the customer provided such documentation to AB&T and will subsequently destroy the documentation. AB&T has indicated that approval of an application takes approximately 24 hours. Following approval, AB&T will ship the handset to the customer at no charge to the customer. The customer may activate the handset immediately.

- (10) AB&T explains that its billing system allows it to determine on a monthly basis whether a Lifeline subscriber is actively using the service. In accordance with both the FCC and Commission orders, AB&T will notify any Lifeline customer who does not

use his or her Lifeline service during any continuous 60-day period that he or she is no longer eligible for Lifeline benefits. Following such notice, AB&T will provide the customer with a 30-day grace period during which the customer may demonstrate usage. AB&T has indicated that it will provide the customer with an additional 15-day notice during this 30-day period. If the customer fails to demonstrate usage during this 30-day period, AB&T will terminate the customer's Lifeline service. AB&T will then remove the customer from its Lifeline rolls and will not include the customer on its USAC Form 497 submission for that month. In addition, AB&T will update USAC's Lifeline database within one business day of the de-enrollment. AB&T will assess no termination charge to the customer and there is no reconnection or reactivation fee for a customer who subsequently reinstates Lifeline service. Customers with remaining voice minutes or text messages purchased under an AB&T Lifeline plan may continue to use these minutes or messages under AB&T's traditional prepaid services following termination of the customer's Lifeline service.

- (11) AB&T asserts that it will advertise availability of the supported wireless Lifeline services and the corresponding charges in a manner that fully informs the general public within the vicinity of the service areas of the services and charges, using media of general distribution, and agrees to comply with all form and content requirements, if any, made by the FCC or the Commission regarding ETCs.
- (12) In accordance with 47 U.S.C. 214(e)(2), a state commission "may designate a requesting carrier as an ETC if it meets the requirements outlined in the law." Additionally, 47 U.S.C. 254 provides that "only an [ETC] designated by Section 214(e) shall be eligible to receive specific federal universal service support." Therefore, the Commission has reviewed AB&T's application as discussed herein.

- (13) Based on a review of the record in this proceeding, the Commission determines that the pending application seeking ETC status for Lifeline-only support should be conditionally approved, as discussed below. The designation shall be limited to the service area set forth in AB&T's application.

In granting this interim approval, the Commission relies upon AB&T's representation that it provides its customers in the state of Ohio with access to 9-1-1 and enhanced 9-1-1 services provided by local governments or other public safety organizations. Additionally, AB&T states that it is capable of delivering automatic numbering information and automatic location information over its existing network, and otherwise applicable state and federal E-911 requirements.

Consistent with the ETC designation granted pursuant to this Order, AB&T must offer Lifeline service to subscribers throughout the designated service area who meet the requisite eligibility requirements. The Commission emphasizes that this ETC designation is limited to Lifeline service only and is granted for an interim one-year period of time commencing from the date of this Order. At the conclusion of this interim period, the Commission will review the company's operations for compliance with the FCC's ETC requirements and the requirements of the Commission's *10-2377 Order* and any subsequent entries on rehearing and this Order to determine if renewal of the ETC designation is appropriate. During this review, the company can continue to provide its Lifeline service without interruption, subject to verification of compliance, until the Commission orders otherwise.

The Commission's approval in this Order is contingent upon the company complying with our *10-2377 Order*, all applicable FCC orders pertaining to the company's operations as an ETC, and applicable Commission rules, as well as satisfying the conditions delineated below. Subject to these stated conditions, the Commission finds that AB&T's application is consistent with the requirements of the 1996 Act, the applicable FCC

decisions, and Rules 4901:1-6-09 and 4901:1-6-19, O.A.C. For the purpose of the designation as an ETC, AB&T's service shall be considered as the primary household line, notwithstanding the fact that it is a wireless service. Only the primary household line is eligible for Lifeline support and Lifeline support is limited to a single Lifeline subscription per household.

In determining that AB&T should be designated as an ETC on an interim basis, the Commission finds that AB&T is financially and technically capable of providing Lifeline service and that AB&T's provisioning of Lifeline services will be in the public interest by providing an additional alternative provider of those services delineated in 47 C.F.R. 54.101. Additionally, AB&T's service offering is unique inasmuch as it is a wireless service that extends the mobility benefits of wireless, as well as a pay-in-advance service that offers multiple service options to low-income subscribers.

- (14) The Commission recognizes that the federal USF, which is already facing an unprecedented demand, supports AB&T's service. Given the mobile nature of wireless, it is more difficult to ensure that only eligible customers are receiving the service. Thus, to help guard against the potential for waste, fraud, and abuse, we find that AB&T must first comply with the certification criteria as set forth in Rule 4901:1-6-19(H), O.A.C.

To properly address concerns regarding the potential for waste, fraud, and abuse regarding the disbursement of federal Lifeline support, subscriber eligibility shall be established and verified pursuant to the processes as set forth in the FCC's *Lifeline Reform Order* and the Commission's *10-2377 Order*. With regard to the issue of waste, the Commission notes that AB&T will notify Lifeline customers that have not utilized their service for any continuous 60-day period that their discount will be removed, subject to a 30-day grace period.

- (15) The record reflects that AB&T will annually advertise the availability of the Lifeline services and the corresponding rates via media of general circulation throughout its service territory. This shall include all media of general distribution. While AB&T may utilize various methods of promoting its Lifeline service and providing company-specific contact information, AB&T, itself, must have direct contact with all customers applying for participation in and seeking eligibility determinations relative to the Lifeline program, prior to activating the service.
- (16) AB&T must contribute to the state of Ohio's 9-1-1 fund for all of its Ohio wireless subscribers, including those enrolled in Lifeline service. Additionally, AB&T must provide its requisite contribution to Ohio's Telephone Relay Service for all of its subscribers, including those enrolled in Lifeline service.¹ AB&T must also pay its annual Commission assessment consistent with Section 4905.10, Revised Code. The Commission reserves the right to perform an audit regarding AB&T's contributions into Ohio's 9-1-1 and Telephone Relay Service funds. The Commission further directs AB&T to make available to the Commission Staff (Staff), upon request, information concerning AB&T's contributions into Ohio's 9-1-1 and Telephone Relay Service funds.
- (17) The Commission reminds AB&T that it must comply with the Commission's rules regarding telephone number optimization (Rule 4901:1-7-25, O.A.C.) and the FCC's rules in 47 C.F.R. 52. These rules require, among other things, that the company participate in all available number conservation requirements

¹ On July 18, 2012, the Commission granted the applications for rehearing of TracFone Wireless, Inc. (TracFone) and Virgin Mobile USA, LP (Virgin) in 10-2377. In its applications for rehearing, TracFone requested rehearing of the Commission's decision to require all wireless resellers of Lifeline service to contribute to the Ohio county-specific 9-1-1 funds and all nontraditional Lifeline service providers to contribute to the state-specific TRS fund. In its application, Virgin requested rehearing of the Commission's application of the 9-1-1 fee to wireless resellers of Lifeline service. The Commission ordered that the applications for rehearing be granted for further consideration of the matters raised in the applications.

including, but not limited to, the return of AB&T assigned telephone number(s) to its underlying carrier(s) for donation to the appropriate number pool upon deactivation of service to an AB&T customer. The Commission further directs AB&T to make available to Staff, upon request, information concerning the applicant's utilization of telephone numbers.

- (18) To the extent that AB&T amends the existing rates, terms, and conditions of its Lifeline service offering, it must notify the Commission by filing such modifications in this docket. AB&T is directed to provide all records and documents requested by Staff for the purpose of monitoring the company's provision of Lifeline service and compliance with the terms and conditions of this Order.
- (19) AB&T must maintain the following Ohio-specific information on a monthly basis, and informally provide Staff with quarterly reports reflecting data for that time frame. AB&T should submit the first quarterly report to Staff no later than November 1, 2012, and should encompass data beginning from August 22, 2012. The scope of the quarterly reports may change as Staff deems it appropriate.
 - (a) The number of Lifeline service applications received by AB&T;
 - (b) The number of Lifeline service applications approved by AB&T. The response should include a numerical breakdown of the basis for approval (e.g., the number of applications approved based on income eligibility or program-based eligibility);
 - (c) The current total number of Lifeline customers served by the company;

- (d) The number of customers subscribed to each individual plan (i.e., Lifeline Wireless Essentials 250 and Wireless Lifeline Essentials 500);
- (e) The number of Lifeline service applications that were denied by AB&T. The response should include a numerical breakdown of the basis for denial (e.g., address found to be receiving other Lifeline benefits, improper documentation, or incomplete documentation);
- (f) The number of handsets that were deactivated after 60 days of nonusage. For the purpose of this question, deactivated implies that AB&T is no longer receiving Lifeline support from the USF for the handset;
- (g) The number of handsets that have been deactivated on a monthly basis due to the failure of subscribers to recertify or verify. For the purpose of this question, deactivated implies that AB&T is no longer receiving Lifeline support from the USF for the handset;
- (h) The number of Lifeline service subscribers whose handsets were deactivated and who subsequently re-enrolled in the Lifeline program; and,
- (i) The number of Lifeline contacts received by AB&T from Ohio customers each month. The response should include a numerical breakdown of the reason for the contact (e.g., coverage availability, service denied, did not receive a phone, did not receive monthly minutes, etc.).

It is, therefore,

ORDERED, That AB&T be granted conditional designation as an ETC for the limited purpose of providing Lifeline service for an interim one-year period of time consistent with Finding (13). It is, further,

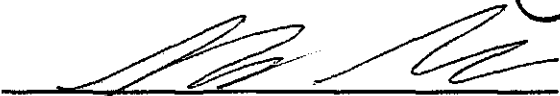
ORDERED, That AB&T comply with the provisions of this Finding and Order, including the submission of quarterly reports consistent with Finding (19). It is, further,


ORDERED, That nothing contained in this Finding and Order shall be deemed binding upon the Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this Finding and Order be served upon all parties and interested persons of record.

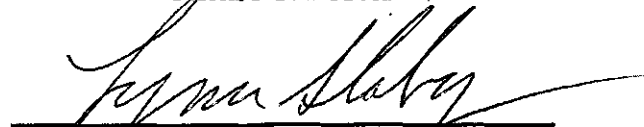
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser

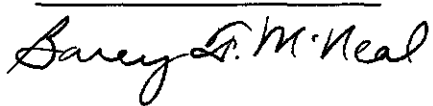

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