

THE PUBLIC UTILITIES COMMISSION OF OHIO

FINDING AND ORDER

- (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 (the 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 telecommunication 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 June 21, 2012, and as supplemented on February 1, 2013, Total Call Mobile, Inc. (TCM) filed an application seeking designation as a Eligible Telecommunications Carrier (ETC) in Ohio. TCM submitted the application pursuant to 214(e)(2) of the Communications Act of 1934, and 47 C.F.R. 54.101- 54.207 and Rule 4901:1-6-19, Ohio Administrative Code (O.A.C.). The application was filed pursuant to 47 U.S.C. §214(e)(2), which provides that a state commission “shall . . . upon request designate a common carrier that meets the requirements of paragraph 1 [of Section 214(e)] as an [ETC] for a service area designated by the state commission.” Therefore, the Commission has reviewed TCM’s application as discussed herein.
- (6) In its application, TCM states that it seeks ETC designation solely to provide resold prepaid wireless Lifeline service to qualifying Ohio consumers and that it will not seek access to funds from the USF for high-cost support. TCM adds that receiving designation as an ETC would not unduly burden the universal service fund, as “the amount of support available to an eligible Lifeline subscriber is exactly the same whether the support is given through a carrier such as TCM or the Incumbent Local Exchange Carrier (ILEC) operating in the same service area.” TCM requests in its application designation that is statewide in scope, but subject to its underlying carrier’s facilities and corresponding service coverage.

TCM currently provides non-Lifeline wireless services in Ohio by reselling the network services that it obtains from Sprint PCS (Sprint). As a non-facilities based wireless provider choosing to provide Lifeline services, TCM notes that it sought forbearance of the facilities requirement for ETCs from the FCC through the *Lifeline Reform Order*. In addition, TCM filed its compliance plan with the FCC’s

Wireline Competition Bureau as required by the *Lifeline Reform Order*. The compliance plan was approved by the FCC on May 25, 2012. In the instant application for ETC designation, TCM commits to providing Lifeline service in accordance with its FCC compliance plan. Additionally, TCM included a copy of its FCC-approved compliance plan with its application to the Commission.

- (7) Pursuant to 47 C.F.R. 54.202(a)(4) carriers seeking ETC designation must demonstrate financial and technical capability in accordance with the FCC's Lifeline service requirements.¹ Further, a carrier's FCC compliance plan must also include these demonstrations for the FCC's consideration. In its FCC compliance plan, TCM submitted that it is a wholly owned subsidiary of Total Call International, a national prepaid telecommunications service provider. TCM included in its compliance plan detailed financial statements and management biographies to demonstrate financial and technical capabilities.
- (8) In accordance with 47 C.F.R. 54.202(a)(2), TCM states it has the ability to remain functional in emergency situations through its agreement with its underlying carrier. In particular, TCM assures the Commission that its service, through its underlying carrier, will provide (a) a reasonable amount of back-up power to ensure functionality without an external power source; (b) the ability to reroute traffic around damaged facilities; and, (c) the capability of managing traffic spikes resulting from emergency situations.

TCM contends that receiving designation in Ohio as a wireless Lifeline service provider will benefit the public interest. According to TCM, Ohio low-income consumers will benefit from the added competition through a wider choice of providers and services.

TCM does not conduct credit checks or require customers to enter into long-term contracts as a prerequisite to obtaining its service. Furthermore, TCM does not charge

¹ See *Lifeline Reform Order* at ¶¶ 387-388 (revising Commission rule 54.202(a)(4)).

any activation or re-activation fees. Additionally, TCM states that its proposed discounted retail prepaid wireless Lifeline plans are affordable to low-income and low-volume consumers and offers access to emergency services and communication with friends, family, and prospective employers.

Finally, TCM represents that it will satisfy all applicable state and federal requirements related to consumer protection and service quality standards. Specifically, TCM commits to comply with the Cellular Telecommunications and Internet Association Consumer Code for Wireless Service in accordance with 47 C.F.R. 54.202(a)(3).

- (9) In its application, TCM proposes to offer five Lifeline service plans to eligible consumers. Each Lifeline service plan includes a free E 9-1-1 compatible handset, voicemail service, call waiting, caller ID, free calls to customer service, and access to 9-1-1 for all customers, including those with a zero balance of airtime remaining on the handset.

Lifeline customers have the choice of two plans that provide free monthly minutes. Alternatively, the Lifeline customers may choose one of three regular retail plans and receive a discount off the monthly retail price of the plan. Lifeline Plan 1 provides 150 free anytime minutes per month at no cost to the customer. Additionally, Plan 1 allows the free minutes to be used for international calls to 250 specific locations. Lifeline Plan 2 provides 250 free anytime minutes per month, again at no cost to the customer. The free minutes on this plan may be used for the same list of 250 specific call destinations as Plan 1, but there is an additional charge of \$0.02 per minute for these calls on Plan 2. Any other non-specified international destination calls on either plan requires additional funds based on the destination. Texting may be used on either plan at the rate of 1 minute per text, incoming or outgoing.

Alternatively, customers may choose to subscribe to any one of three retail plans, each offered with a \$10 discount per month. Each of the optional retail discount plans are

30-day plans that the customer may change without charge at the end of the month. Plan 3, the 1000 Talk & 1000 Text Plan, will cost the Lifeline customer \$19.99 per month (retail price is \$29.99). Plan 4, the Unlimited Talk & Text Plan, will cost \$29.99 per month (retail price is \$39.99). Plan 5, the Unlimited Talk, Text, and Data Plan, will cost \$39.99 per month (retail price is \$49.99). All three optional retail plans provide other texting options as well. If the Lifeline customer has upgraded to one of the retail discount plans and fails to make the required monthly payment, the service will default to the free Lifeline Plan 1, which consists of 150 free anytime minutes per month at no cost to the customer.

- (10) Pursuant to FCC and Commission requirements, TCM states that it will provide 9-1-1 and E 9-1-1 services to its customers regardless of activation status or availability of minutes. Customers will be able to access emergency service even if there are no minutes remaining on the account. TCM seeks to ensure that all customers have an E 9-1-1 compliant handset. Toward this end, TCM will replace, without charge, any handset that is not E 9-1-1 compliant with one that is E 9-1-1 compliant. New customers who enroll in the program will be assured of receiving E 9-1-1 complaint handsets.
- (11) TCM states it will enroll customers in accordance with 47 C.F.R. 54.409. This revised rule sets forth the customer qualifications for Lifeline eligibility by identifying the income qualifying threshold, lists the acceptable federal assistance programs, and requires that the customer or another household member not already be subscribed to a Lifeline service. Additionally, TCM confirms it will comply with 47 C.F.R. 54.410 which outlines the carrier responsibility for implementing policies and procedures for subscriber eligibility determination, certification, and re-certification.
- (12) Furthermore, TCM indicates that it will comply with the Commission's rules governing certification and verification of Lifeline eligibility, the Commission's *10-2377 Order*, and the Lifeline requirements contained in Rule 4901:6-19,

O.A.C. Additionally, TCM understands that it must annually re-certify its entire Lifeline customer base and report the results to Universal Service Administrative Company (USAC), FCC, and the Commission. In its attached approved FCC compliance plan, TCM provides the details regarding consumer enrollment, consumer eligibility criteria, and its recertification procedures as required by the *Lifeline Reform Order*. Furthermore, contained in its compliance plan are detailed explanations regarding marketing and disclosure requirements, procedures to prevent waste, fraud, and duplicate subsidies within its own subscriber base.

- (13) TCM commits that it will contribute to Ohio's Telephone Relay Service on behalf of its Lifeline customers. Additionally, TCM will pay the applicable Ohio Commission's assessment fee.

TCM intends to enroll customers in its Lifeline service in person at various events or by internet, fax, or telephone contact. TCM states that it will train its representatives and agents in Lifeline requirements. Its representatives or agents will conduct an interview to determine eligibility and obtain the requisite qualifying documentation from the potential Lifeline customer. TCM maintains its own database to store its customer base information and its internal operations team is in charge of reviewing Lifeline applications. TCM will use software from CGM, LLC (CGM), a Georgia-based premier Lifeline service bureau, to check for TCM duplicates as well as duplicates with other CGM clients who are involved in the inter-company duplicates database (IDD) compiled by CGM. Additionally, the IDD can identify if Lifeline service is already provided at a particular address. The IDD can also identify a duplicate name, Social Security Number, birth date, and other similar information. If the database reveals that an entire record is a duplicate, TCM will reject the application. If only the address is a duplicate, TCM will provide the applicant with information regarding the definition of a household and provide the requisite application. TCM states that it will take thorough

precautions to ensure that only one Lifeline phone is provided per household.

- (14) According to TCM, once a consumer receives approval for Lifeline service, the consumer activates service by placing a call directly to TCM. TCM will not consider a prepaid subscriber account activated until the subscriber places a call to TCM demonstrating usage of the phone.²
- (15) To 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 rules and the *Lifeline Reform Order*, as well as the Commission's *10-2377 Order*. With regard to the issue of waste, TCM 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, TCM 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, TCM will provide the customer with a 30-day grace period during which the customer may demonstrate usage. If the customer fails to demonstrate usage during this 30-day period, TCM will terminate the customer's Lifeline service. TCM 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, TCM will update USAC's Lifeline database within one business day of the de-enrollment. TCM will assess no termination charge to the customer and there is no reconnection or reactivation fee for a customer who subsequently reinstates Lifeline service.
- (16) TCM asserts that it will advertise the availability and rates for its services using media of general distribution as required by 47 C.F.R. 54.201(d)(2)³ and in accordance with

² See *Lifeline and Link Up Reform Order* at ¶ 257; 47 C.F.R. 54.407(c)(1).

³ See 47 C.F.R. 54.201.

the requirements set forth in the *Lifeline Reform Order*.⁴ TCM will advertise Lifeline services and plans using multiple mediums for outreach including direct mail, the internet, and face-to-face contact at community events. The advertisements will be designed to reach those likely to qualify for Lifeline services. TCM will also distribute brochures at state and local social service agencies, and will distribute posters, print ads, pamphlets, and flyers at various retail locations that sell TCM products.

- (17) 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.”
- (18) 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 TCM’s application.

In granting this interim approval, the Commission relies upon TCM’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, TCM 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 9-1-1 requirements.

Consistent with the ETC designation granted pursuant to this Order, TCM 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,

⁴ See *Lifeline and Link Up Reform Order* at Section VII.F.

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* 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 rules and 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 TCM's application is consistent with the requirements of the 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, TCM'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 TCM should be designated as an ETC on an interim basis, the Commission finds that TCM is financially and technically capable of providing Lifeline service and that TCM'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.

- (19) The Commission recognizes that the federal USF, which is already facing an unprecedented demand, supports TCM'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 TCM 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 TCM 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.

- (20) The record reflects that TCM will 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 TCM may utilize various methods of promoting its Lifeline service and providing company-specific contact information, TCM, 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.
- (21) TCM must provide its requisite contribution to Ohio's Telephone Relay Service for all of its subscribers, including those enrolled in Lifeline service. TCM must also pay its annual Commission assessment consistent with Section 4905.10, Revised Code. The Commission reserves the right to perform an audit regarding TCM's contributions into Ohio's Telephone Relay Service fund. The Commission further directs TCM to make available to the Commission Staff (Staff), upon request, information concerning TCM's contributions into Ohio's Telephone Relay Service fund.
- (22) The Commission reminds TCM 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 including, but not limited to, the return of TCM's assigned telephone number(s) to its underlying carrier(s) for donation to the appropriate number pool, upon termination of service by a TCM

customer, absent the porting of the number to another provider. The Commission further directs TCM to make available to Staff, upon request, information concerning the applicant's utilization of telephone numbers.

- (23) To the extent that TCM amends the existing rates, terms, and conditions of its Lifeline service offering, it must notify the Commission by filing such modifications in this docket. TCM 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.
- (24) TCM must maintain the following Ohio-specific information on a monthly basis, and informally provide Staff with quarterly reports reflecting data for that time frame. TCM should submit the first quarterly report to Staff no later than September 1, 2013, and should encompass data beginning from May 15, 2013. The scope of the quarterly reports may change as Staff deems it appropriate.
 - (a) The number of Lifeline service applications received by TCM;
 - (b) The number of Lifeline service applications approved by TCM. 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 (e.g. Lifeline Plan 1 - Call Anytime 150 Minute Plan, Lifeline Plan 2 - 250 Minute Plan, Lifeline Plan 3 - 1000 Talk/1000 Text month Plan, Lifeline Plan 4 - 30-day Unlimited Talk & Text; Lifeline Plan 5 - Unlimited Talk, Text & Data plan);

- (e) The number of Lifeline service applications that were denied by TCM. 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 TCM 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 TCM 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;
- (i) The number and percentage of Lifeline customers who deplete the Lifeline Plan 1, Call Anytime 150 Minute Plan, Lifeline Plan 2, 250 Minute Plan, and Lifeline Plan 3, 1000 Talk/1000 Text plan minutes by the end of the month;
- (j) The number and percentage of Lifeline customers who deplete the Lifeline Plan 1, Call Anytime 150 Minute Plan, Lifeline Plan 2, 250 Minute Plan, and Lifeline Plan 3, 1000 Talk/1000 Text Plan minutes within the first two weeks of the month;

- (k) The number of subscribers under the Lifeline Plan 1, Call Anytime 150 Minute Plan, Lifeline Plan 2, 250 Minute Plan, and Lifeline Plan 3, 1000 Talk/1000 Text who purchased additional minutes;
- (l) The average number of additional minutes purchased under the 150 minute, 250 minute, and the 1000 Talk/1000 Text plans;
- (m) The percentage of minutes used for voice and text under the 150 minute, 250 minute, and the 1000 Talk/text plans;
- (n) The average number of unused minutes under the 150 minute, 250 minute, and the 1000 Talk/Text plans; and
- (o) The number of Lifeline contacts received by TCM 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 TCM 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 (18). It is, further,

ORDERED, That TCM comply with the provisions of this Finding and Order, including the submission of quarterly reports consistent with Finding (24). 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

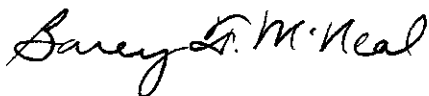

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Entered in the Journal
MAY 15 2013



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