

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Petition of Global)
Connection Inc. of America dba Stand Up)
Wireless, for Designation as a Low-Income) Case No. 12-2253-TP-UNC
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 (10-2377), *In the Matter of the Commission Investigation into the Provision of Nontraditional Lifeline Service by Competitive Eligible Telecommunications Carriers*. 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 August 7, 2012, as amended on April 5, 2013, April 8, 2013, and April 23, 2013, Global Connection Inc. of America dba Stand Up Wireless (Stand Up Wireless or company), filed an application to be certified as a nonrural, competitive, eligible telecommunications carrier (CETC) for the limited purpose of offering Lifeline service to qualified households. 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."

Global Connection Inc. of America is currently certified in the state of Ohio as a competitive local exchange carrier pursuant to Certificate of Public Convenience and Necessity No. 90-9261 to provide wireline telecommunications services. It provides resold commercial mobile radio service throughout the United States, under its dba Stand Up Wireless. Although it does not currently do so, Stand Up Wireless intends to begin offering both resold Lifeline and non-Lifeline wireless services in the state of Ohio.

Pursuant to its application, the company seeks to provide prepaid wireless telecommunications services to consumers using the Sprint PCS and Verizon Wireless networks on a wholesale basis via an agreement with Boomerang Wireless LLC dba Ready Mobile (Ready Mobile). In particular, Stand Up Wireless explains that through its wholesale agreement with Ready Mobile, it obtains the network infrastructure to allow it to operate as a Mobile Virtual Network Operator. According to the company, it has entered into its arrangement with Ready Mobile due to the fact that it does not have a direct contractual relationship with Sprint PCS and Verizon Wireless. Specifically, Stand Up Wireless notes that it does not have the required internal facilities necessary to allow for direct integration with these underlying carriers and does not have the necessary customer volume to warrant a direct relationship with these carriers.

In support of its application, Stand Up Wireless represents that it has been designated as a CETC in Arkansas, Louisiana, Maryland, Michigan, Missouri, and West Virginia. Stand Up Wireless seeks to be designated as a CETC throughout the state of Ohio subject to the existence of its underlying carriers' facilities and corresponding coverage. The application specifically identifies those exchanges for which it is seeking CETC status. In light of the fact that it relies on the existing facilities of its underlying carriers, Stand Up Wireless submits that it will be able to commence offering its Lifeline service to all locations served by its underlying carrier very soon after receiving approval from the Commission.

Stand Up Wireless states that it satisfies all regulatory requirements for designation as a CETC in the state of Ohio and that approval of the application will benefit the public interest. In particular, Stand Up Wireless submits that approval of its application will enable it to commence much needed Lifeline services to low-income residents as soon as possible.

Stand Up Wireless states that it has the ability to provide all of the services and functionalities supported by the universal service program as delineated in 47 C.F.R. §54.101(a), throughout the state of Ohio subject to the existence of underlying carrier facilities and corresponding coverage. Therefore, Stand Up Wireless seeks designation as a CETC throughout the state of Ohio for the wire centers identified in its supplemental filing of April 5, 2013. Stand Up Wireless represents that it will use third-party contractors for the provisioning of operator, directory assistance, and long distance services.

According to the company, its Lifeline service offering will provide customers with the same features and functionalities enjoyed by non-Lifeline Stand Up Wireless prepaid customers. One significant difference between Stand Up Wireless' Lifeline and non-Lifelines services is that Lifeline customers subscribing to the company's basic Lifeline service (Stand Up 100 and Stand Up 250) will not pay an out-of-pocket fee. Under the Stand Up 100 offering, Lifeline subscribers will receive separate pools of 100 free anytime local and long distance minutes and 100 free SMS text messages. Unused minutes and unused texts will rollover from month-to-month.

Under the Stand Up 250 offering, Lifeline subscribers will be provided with a monthly allotment of 250 free units that can be allocated between voice minutes and/or SMS text messages. Under this plan, one minute of voice or one text is equivalent to one unit. Unused minutes will not rollover from month-to-month.

In addition to the free Lifeline service offerings, Lifeline customers will be allowed to select one of Stand Up Wireless' alternative plans, allowing customers the opportunity to receive more text and voice units at a subsidized monthly rate. Specifically, Stand Up Wireless states that it will apply the total Lifeline subsidy (the federal Lifeline subsidy of \$9.25 plus a company contribution of \$3.50) to the monthly retail rate of the alternative plan. The alternative plans include the following:

- (a) Stand Up 500- Under this plan, Lifeline customers will be provided with a monthly allotment of 500 anytime local and long distance minutes and 500 SMS text messages at a monthly cost of \$14.95, excluding applicable taxes and fees. Unused minutes will not rollover from month-to-month.
- (b) Stand Up 1000- Under this plan, Lifeline customers will be provided with a monthly allotment of 1,000 anytime local and long distance minutes and 1,000 SMS text messages at a monthly cost of \$29.95, excluding applicable taxes and fees. Unused minutes will not rollover from month-to-month.
- (c) Stand Up Unlimited- Under this plan, Lifeline customers will receive unlimited voice minutes and 1,000 SMS text messages at a monthly cost of \$34.95, excluding applicable taxes and fees. Unused minutes will not rollover from month-to-month.

In order to remain on a non-free plan, Lifeline customers must make a payment for their upcoming service period at least five days prior to their service period end date. Customers can provide a monthly recurring credit/debit card to maintain monthly payments or elect to make manual monthly payments,

at no additional charge, either online; over the phone; at Kroger locations; or at agent locations such as community check cashing stores, travel agencies, local grocery stores, and certain other retail establishments under which the company maintains such relationships. Lifeline customers may also pay at any Western Union or MoneyGram location for an additional \$3.95 payment processing fee. Lifeline customers will be notified by text message, voice message, and/or email as to when their payment is due. Lifeline customers who fail to make payment prior to the deadline will be automatically changed to the free Stand Up 100 plan for the subsequent service period.

For all of the Lifeline plans, customers will have the ability to purchase additional credits. Each credit will provide one additional minute of airtime or one additional SMS text message. Additional credits can be purchased at the rate of \$5.00 for 40 credits, \$10 for 100 credits, \$20 for 250 credits, \$30 for 500 credits, and \$50 for 1,000 credits. Additional credits can be purchased at either any authorized Stand Up Wireless payment center, online, or via the company's toll-free number. All of the Lifeline plans will include a free handset and the following custom calling features at no charge: (1) Caller ID, (2) Call Waiting, (3) Three-Way Calling, and (4) Voicemail.

Stand Up Wireless notes that it offers its wireless Lifeline service without credit checks or restrictive service contracts. Additionally, it does not assess charges for activation or connection of service. Therefore, the company believes that its prepaid Lifeline offering is an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

Calls to the company's customer service representative will not be depleted from the subscriber's allotment of available minutes. Additionally, customers whose balance of voice minutes has been exhausted will still be able to make outbound calls to the company's customer service as long as the customer's service is still active. Calls to 9-1-1 emergency services will not be depleted from the subscriber's allotment of available minutes and will always be completed regardless of service activation or availability of minutes.

In order to avoid waste, fraud, and abuse of the Lifeline program, Stand Up Wireless will not seek reimbursement from the USF for subscribers whose accounts are inactive for a consecutive 60-day period. The company will notify its subscribers at service initiation that deactivation will result following no usage in any 60-day period of time. An account will be considered active if during any 60-day period, the authorized subscriber does at least one of the following: (1) makes a monthly payment, (2) purchases minutes from the company to add to an existing prepaid Lifeline account, (3) completes an outbound call, (4) initiates an outbound SMS text or data usage, (5) answers an incoming call from anyone other than the company, its representative, or agent, or affirmatively responds to a direct contact from the company confirming that he or she wants to continue.

Following 60 days of inactivity on a subscriber's account, Stand Up Wireless will provide notice informing the subscriber that failure to use the Lifeline service within the 30-day grace period will result in service termination for no usage. Customers that have been deactivated may participate in the company's Lifeline service in the future by reapplying and re-establishing eligibility.

Stand Up Wireless explains that it will utilize CGM, LLC (CGM), a Lifeline service bureau in order to eliminate waste, fraud, and abuse of Lifeline funds. In particular, CGM will review data in order to ensure that Stand Up Wireless does not submit multiple requests for subsidies in the same month for the same name/address. Additionally, Stand Up Wireless will utilize CGM's Inter-company Duplicative Database (IDD) to verify that an applicant does not already receive Lifeline service from any other company that has agreed to share their data with the IDD. CGM will also compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Further, Stand Up Wireless represents that it will interface with any database or database administrator established by the FCC as part of the effort to prevent duplicative Lifeline benefits in any given household.

Currently, Stand Up Wireless employees are the only agents that will sign-up customers in person through its field distribution. Specifically, field distribution consists of the

establishment of portable certification and distribution sites (e.g., street tent style kiosks) in areas that are densely populated with Lifeline eligible consumers. Trained employees at these locations will assist potential consumers with the enrollment process. According to the company, these field distribution locations will be established on sidewalks or lots within high traffic areas of retail establishments and community centers.

Stand Up Wireless may also promote the availability of its Lifeline offering by distributing brochures at various state and local social service agencies and may partner with nonprofit assistance organizations in order to inform customers of the availability of Lifeline service. Additionally, Stand Up Wireless intends to utilize its network of retail partners to help promote the availability of its Lifeline service, especially those retail outlets that are frequented by low-income customers (e.g., Western Union and MoneyGram locations) and independent operators (e.g., insurance providers, check cashing locations, and select discount retailers). Specifically, Stand Up Wireless will provide retail vendors with printed materials describing the company's Lifeline program. It is also exploring the option of establishing permanent store locations

Stand Up Wireless will enroll customers in accordance with its Compliance Plan submitted in this docket.¹ Customers will be able to sign up for Lifeline assistance in person or by contacting the company via telephone, facsimile, or the Internet. Company personnel are available to explain the eligibility criteria to perspective customers when they are enrolling in person or over the telephone. Stand Up Wireless has an internal team dedicated to managing the customer application review and verification process. According to the company, applications over the Internet or telephone will generally be processed within 48 hours. If the customer receives a denial letter, the notification will identify the application deficiency and the additional information needed to address the deficiency.

¹ According to Stand Up Wireless, its submitted Compliance Plan was approved by the FCC on May 25, 2012.

Specifically, Stand Up Wireless represents that, consistent with 47 C.F.R. §54.101(a) and §54.202(a), it will offer the following voice telephony services:

- (a) Voice grade access to the public switched network;
- (b) Local usage, i.e., minutes of use for local service provided at no additional charge to Lifeline subscribers;
- (c) Access to 9-1-1 and E9-1-1 emergency service.

In accordance with 47 C.F.R. §54.202(a)(2), Stand Up Wireless represents that it has the ability to remain functional in emergency situations. In particular, it submits that, through its agreement with its underlying carriers, it will provide its customers with the same ability to remain functional in an emergency situation as is currently provided by the incumbent local exchange carriers to their customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, ability to reroute traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

In regard to the provision of toll limitation for qualified low-income customers, Stand Up Wireless submits that, consistent with the FCC's determination in the Lifeline Reform Order at ¶367, CETCs are no longer required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls. Stand Up Wireless points out that its service offerings inherently allow Lifeline subscribers to control their usage as its wireless service is offered on a "prepaid pay-as-you-go" basis.

Stand Up Wireless states that, while no longer required by 47 C.F.R. §54.101(a), it provides dual tone multi-frequency signaling in order to expedite the transmission of call set up and call detail information throughout the network. The company also provides single party service for the duration of each telephone call, access to operator services, and the ability to make interexchange or long distance telephone calls. Customers can access directory assistance services by dialing

"411". Calls to directory assistance will be considered as minutes of use under a customer's selected plan.

In regard to the issue of service quality commitments, Stand Up Wireless represents that it will satisfy all applicable state and federal requirements related to consumer protection and service quality standards. Specifically, the company commits to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service in accordance with 47 C.F.R. §54.202(a)(3).

Upon approval as an CETC in the state of Ohio, Stand Up Wireless will advertise the availability of its Lifeline services and its associated charges using print media of general circulation throughout its service territory in accordance with the requirements of 47 C.F.R. §54.201 and the Lifeline Reform Order. Specifically, the company will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline services using mediums for outreach such as mass media, outreach events, and community and charitable involvement.

Citing the Lifeline Reform Order at ¶208 and revised 47 C.F.R. §54.202(a)(1)(i), Stand Up Wireless commits to comply with the service requirements applicable to the support it receives. The company also states that it will comply with all rules and regulations that the Commission may lawfully impose upon the Company's provision of service contemplated by the application, including those delineated in Case Nos. 10-1010-TP-ORD and 10-2377. The company also represents that it will contribute on both the state's 9-1-1 and Telephone Relay Service funds on behalf of its Lifeline customers. Finally, the company commits to complying with the Commission's rules regarding telephone number optimization and will pay the applicable Commission assessment fee.

- (6) 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 the company's application as discussed herein.

- (7) 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 Stand Up Wireless' application. In reaching this determination, the Commission is aware that the company's proposed ETC operations will consist of the offering of resold services. The Commission notes, however, that the FCC has now granted forbearance from enforcement of the facilities requirement set forth 47 C.F.R. §54.201(i) provided specified conditions are satisfied:
- (a) The carrier must comply with certain 9-1-1 requirements [(i) providing its Lifeline subscribers with 9-1-1 and E9-1-1 access regardless of activation status and availability of minutes; (ii) providing Lifeline subscribers with E-911 compliant handsets and replacing at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline supported services].
 - (b) The carrier must have an FCC-approved compliance plan providing specific information regarding the carrier's service offerings and outlining the measures that the carrier will take to implement the obligations contained in the Lifeline Reform Order.

This forbearance applies to those carriers seeking Lifeline-only ETC designation. See Lifeline Reform Order at ¶368.

In granting this interim approval, the Commission relies upon Stand Up Wireless' 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. Consistent with the ETC designation granted pursuant to this Order, Stand Up Wireless 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 this Order to determine if renewal of the CETC 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 May 23, 2012, Finding and Order in 10-2377, all applicable FCC orders pertaining to the company's operations as an ETC, its FCC-approved Compliance Plan, the applicable Commission rules, as well as satisfying the conditions delineated below. Subject to these stated conditions, the Commission finds that Stand Up Wireless' 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, Ohio Administrative Code (O.A.C.). For the purpose of the designation as a CETC, Stand Up Wireless' service shall be considered as the primary household line, notwithstanding the fact that it is 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 Stand Up Wireless should be designated as a CETC on an interim basis, the Commission finds that the company is financially and technically capable of providing Lifeline service and that its 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.

- (8) The Commission recognizes that Stand Up Wireless' service is supported by the USF, which is already facing an unprecedented demand. 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 fraud and abuse, we find that Stand Up Wireless must first comply with the certification criteria as set forth in Rule 4901:1-6-19(H), O.A.C.

In order 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 Lifeline Reform Order. In regard to the issue of waste, the Commission notes that Stand Up Wireless 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.

- (9) The record reflects that Stand Up Wireless will annually advertise the availability of the Lifeline services and the corresponding rates via print media of general circulation throughout its service territory. Specifically, the company states that it will engage in advertising campaigns specifically targeted to reach those likely to qualify for Lifeline services.
- (10) While Stand Up Wireless may utilize independent retailers for the purpose of promoting its Lifeline service and providing company-specific contact information, the company, 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.
- (11) Stand Up Wireless must provide its requisite contribution to Ohio's Telephone Relay Service for all of its subscribers, including those enrolled in Lifeline service. Stand Up Wireless must pay its annual Commission assessment consistent with Section 4905.10, Revised Code. The Commission reserves the right to perform an audit regarding Stand Up Wireless' contributions into Ohio's Telephone Relay Service fund. The Commission further directs Stand Up Wireless to make available to the Commission Staff (Staff), upon request, information concerning Stand Up Wireless' contributions into Ohio's Telephone Relay Service fund.
- (12) The Commission reminds Stand Up Wireless 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 Stand Up Wireless assigned telephone number(s) to

its underlying carrier(s) for donation to the appropriate number pool upon termination of service by a Stand Up Wireless customer absent the porting of the number to another provider. The Commission further directs Stand Up Wireless to make available to the Staff, upon request, information concerning the company's utilization of telephone numbers.

- (13) To the extent that Stand Up Wireless amends the existing rates, terms, and conditions of its Lifeline service offering, it must notify the Commission by filing such modifications in this docket. The company is directed to provide all records and documents requested by the Staff for the purpose of monitoring the company's provision of Lifeline service and compliance with the terms and conditions of this Order.
- (14) Stand Up Wireless must maintain the following Ohio-specific information on a monthly basis, and informally provide the Staff with quarterly reports reflecting data for that time frame. The first quarterly report should be submitted to the Staff no later than September 1, 2013, and should encompass data beginning from May 2013. The scope of the quarterly reports may change as the Staff deems it appropriate.
 - (a) The number of Lifeline service applications received by Stand Up Wireless.
 - (b) The number of Lifeline service applications approved by Stand Up Wireless. 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., Stand Up 100, Stand Up 250, Stand Up 500, Stand Up 1000, Stand Up Unlimited).
 - (e) The number of Lifeline service applications that were denied by the company. 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 no usage. For the purpose of this question, deactivated implies that Stand Up Wireless 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 Stand Up Wireless 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 Stand Up 100, Stand Up 250, Stand Up 500, and Stand Up 1000 plan minutes by the end of the month. The number and percentage of Lifeline customers who deplete the Stand Up 100, Stand Up 250, Stand Up 500, and Stand Up 1000 plan minutes within the first two weeks of the month;
- (j) The number of subscribers under the Stand Up 100, Stand Up 250, Stand Up 500, and Stand Up 1000 plans who purchased additional minutes;
- (k) The average number of additional minutes purchased under the Stand Up 100, Stand Up 250, Stand Up 500, and Stand Up 1000 plans;
- (l) The percentage of minutes used for voice and text under the Stand Up 100, Stand Up 250, Stand Up 500, Stand Up 1000, and Stand Up Unlimited plans;

- (m) The average number of unused minutes under the Stand Up 100, Stand Up 250, Stand Up 500, and Stand Up 1000 plans; and
 - (n) The number of Lifeline contacts received by Stand Up Wireless 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.).
- (15) As part of its application seeking designation as an ETC, Stand Up Wireless filed a motion for protective order requesting that certain exhibits of its application be protected under seal due to the fact that they constitute trade secrets under Ohio law.

Specific to Exhibit C (Contractual Service Agreement), Stand Up Wireless contends that it should be kept under seal due to the fact that:

- (a) The information contained in the agreement describes the pricing and other business details for providing wireless telecommunications service to its customers;
- (b) The financial and other business arrangements are confidential and proprietary; and
- (c) The business details are not public information in any jurisdiction.

Therefore, Stand Up Wireless submits that it would be detrimental if this information became public as competitors would then be able to obtain highly proprietary business information which is not generally available to the public.

Specific to Exhibit D (Network Diagram Flowchart depicting the manner in which the wireless telecommunications services will be provided), Stand Up Wireless submits that public disclosure of the document will be detrimental to the company in the competitive telecommunications market as competitors may obtain highly proprietary business information which is not generally available to the public.

Specific to Exhibit I (Financial Statements), Stand Up Wireless asserts that it is a privately held corporation and its financial statements are not part of the public record in any jurisdiction. Additionally, Stand Up Wireless submits that public disclosure of the exhibit will be detrimental to the company in the competitive telecommunications market as competitors may obtain highly proprietary business information which is not generally available to the public.

- (16) Section 4905.07, Revised Code, provides that all facts and information in the possession of the Commission shall be public, except as provided in Section 149.43, Revised Code, and as consistent with the purposes of Title 49 of the Revised Code. Section 149.43, Revised Code, specifies that the term "public records" excludes information which, under state or federal law, may not be released. The Ohio Supreme Court has clarified that the "state or federal law" exemption is intended to cover trade secrets. *State ex rel. Besser v. Ohio State*, 89 Ohio St.3d 396, 399, 732 N.E.2d 373 (2000).
- (17) Similarly, Rule 4901-1-24, O.A.C., allows the Commission to issue an order to protect the confidentiality of information contained in a filed document, "to the extent that state or federal law prohibits release of the information, including where the information is deemed . . . to constitute a trade secret under Ohio law, and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code."
- (18) Ohio law defines a trade secret as "information . . . that satisfies both of the following: (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy." Section 1333.61(D), Revised Code.
- (19) The Commission has examined the information covered by the motion for protective order filed by Stand Up Wireless, as well as the assertions set forth in the supportive memorandum. Applying the requirements that the information have independent economic value and be the subject of reasonable

efforts to maintain its secrecy pursuant to Section 1333.61(D), Revised Code, as well as the six-factor test set forth by the Ohio Supreme Court,² the Commission finds that the information contained in Exhibits C, D, and I of the application constitutes trade secret information. Release of these documents is, therefore, prohibited under state law. The Commission also finds that nondisclosure of this information is not inconsistent with the purposes of Title 49 of the Revised Code. Finally, the Commission concludes that these documents could not be reasonably redacted to remove the confidential information contained therein. Therefore, the Commission finds that Stand Up Wireless' motion for protective order is reasonable with regard to Exhibits C, D, and I filed on April 8, 2013, and, therefore, the motion should be granted.

- (20) Rule 4901-1-24(F), O.A.C., provides that, unless otherwise ordered, protective orders issued pursuant to Rule 4901-1-24(D), O.A.C., automatically expire after 18 months. Therefore, confidential treatment shall be afforded for a period ending 18 months from the date of this order or until November 15, 2014. Until that date, the docketing division should maintain under seal, the information filed confidentially.
- (21) Rule 4901-1-24(F), O.A.C., requires a party wishing to extend a protective order to file an appropriate motion at least 45 days in advance of the expiration date. If Stand Up Wireless wishes to extend this confidential treatment, it should file an appropriate motion at least 45 days in advance of the expiration date. If no such motion to extend confidential treatment is filed, the Commission may release this information without prior notice to Stand Up Wireless.

It is, therefore,

ORDERED, That Stand Up Wireless be granted conditional designation as a CETC for the limited purpose of providing Lifeline service for an interim one-year period of time consistent with Finding (6). It is, further,

² See *State ex rel. the Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St.3d 513, 524-525, 687 N.E.2d 661 (1997).

ORDERED, That Stand Up Wireless comply with the provisions of this Finding and Order, including the submission of quarterly reports consistent with Finding (14). It is, further,

ORDERED, That the motion for protective order filed by Stand Up Wireless be granted. It is, further,

ORDERED, That the Commission's docketing division maintain under seal Exhibits C, D, I to the company's application which was filed under seal in this docket on April 8 2013, for a period of 18 months. It is, further,

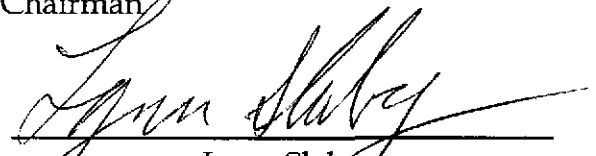
ORDERED, That nothing contained in this Finding and Order shall be deemed binding upon the Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

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

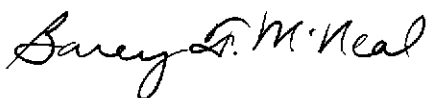

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Barcy F. McNeal
Secretary