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August 31, 2012

VIA UPS OVERNIGHT MAIL

Public Utility Commission of Oregon
550 Capitol St. N.E., Suite 215
Salem, OR 97308-2148
Attn: Filing Clerk

Re: Docket UM 1509 - i-wireless, LLC

Dear Filing Clerk:

Enclosed please find an original and two copies of i-wireless, LLC's Amended Application for Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider and Request for Waiver of Certain RSPF Rules, along with an original signed signature page. This filing has been electronically submitted.

Also enclosed are three sealed envelopes designated as "Confidential" and containing Exhibit 8 to the amended application. This confidential exhibit is on yellow paper pursuant to OAR 860-001-0070.

If you have any questions, or if I may provide you with additional information, please do not hesitate to contact me. Thank you for your assistance.

Very truly yours,

Davis Wright Tremaine LLP

A handwritten signature in black ink that reads "Alan J. Galloway".

Alan J. Galloway
Of Attorneys for i-wireless, LLC

Enclosures

cc: client

DWT 20278654v1 0093367-000001

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**CERTIFICATE OF SERVICE
UM 1509**

I hereby certify that, on August 31, 2012, the **AMENDED APPLICATION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND ELIGIBLE TELECOMMUNICATIONS PROVIDER AND REQUEST FOR WAIVER OF CERTAIN RSPF RULES** was served on the following persons by email to all parties and by U.S. Mail to parties who have not waived paper service:

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

_____)	
In the Matter of)	
)	
Application of i-wireless, LLC)	Docket No. UM 1509
for Designation as an Eligible Telecommunications)	
Carrier in the State of Oregon for the Limited)	
Purpose of Offering Lifeline Service to Qualified)	
Households)	
_____)	

**AMENDED APPLICATION FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER AND ELIGIBLE TELECOMMUNICATIONS
PROVIDER AND REQUEST FOR WAIVER OF CERTAIN RSPF RULES**

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August 31, 2012

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**AMENDED APPLICATION FOR DESIGNATION AS AN ELIGIBLE
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PROVIDER AND REQUEST FOR WAIVER OF CERTAIN RSPF RULES**

I. INTRODUCTION

i-wireless, LLC (“i-wireless” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)¹, Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),² and the rules and regulations of the Public Utility Commission of Oregon (“Commission”)³, hereby amends its Application for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Oregon and re-files its Eligible Telecommunications Provider Application to provide Oregon Telephone Assistance Program

¹ 47 U.S.C. § 214(e)(2)

² 47 C.F.R. §§ 54.101-54.207.

³ See *In the Matter of Public Utility Commission of Oregon Staff Investigation to Establish Requirements for Initial Designation and Recertification of Telecommunications Carriers Eligible to Receive Federal Universal Service Support*, Oregon Public Utility Commission, Docket No. UM 1217, Order No. 06-292 (entered June 13, 2006) (“*Oregon ETC Order*”). ETC designation, certification and reporting requirements are contained in Appendix A to the Oregon ETC Order, and are referenced as (the “*ETC Checklist*”) in this Application

("OTAP") services. For the Commission's convenience, this Amended Application replaces, in its entirety, the Application filed on November 22, 2010. i-wireless seeks ETC and ETP designation solely to provide Lifeline service to qualifying Oregon consumers; it will not seek access to funds from the federal and state Universal Service Funds ("USF") for the purpose of providing service to high cost areas.⁴ As demonstrated herein, i-wireless meets all the statutory and regulatory requirements for designation as an ETC,⁵ including the new requirements outlined in the FCC's Lifeline and Link Up Reform Order.⁶ i-wireless also meets the statutory and regulatory requirements for designation as an ETP⁷ in the State of Oregon, with three exceptions. i-wireless requests a waiver for these requirements for good cause, as explained herein. Rapid grant of i-wireless' request, moreover, would advance the public interest because it would enable the Company to commence much needed Lifeline services to low-income Oregon residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve this amended Application.

All correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be addressed to:

Lance J.M. Steinhart
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⁴ Given that i-wireless only seeks Lifeline support from the low-income program and does not seek any high-cost support, ETC certification requirements for the high-cost program are not applicable to i-wireless.

⁵ See OAR 860-033-0030.

⁶ *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, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline and Link Up Reform Order*").

⁷ OAR Chapter 860, Division 033; Residential Service Protection Fund (the "RSPF Rules").

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II. BACKGROUND

A. Company Overview

i-wireless is a North Carolina Limited Liability Company.⁸ Its principal office is located at 1 Levee Way, Suite 3104, Newport, Kentucky 41071. i-wireless is a reseller of commercial mobile radio service (“CMRS”) throughout the United States and was acknowledged as a CMRS provider in the State of Oregon on March 1, 2007. i-wireless provides prepaid wireless telecommunications services to consumers by using the Sprint Nextel (“Sprint”) network on a wholesale basis to offer nationwide service. i-wireless obtains from Sprint the network infrastructure and wireless transmission facilities to allow i-wireless to operate as a Mobile Virtual Network Operator (“MVNO”).

i-wireless' prepaid wireless services that are affordable and easy to use are attractive to low-income and lower-volume consumers, providing them with access to emergency services

⁸ i-wireless was organized in the State of North Carolina on September 7, 2006. The Company registered with the Oregon Secretary of State on February 20, 2007 (registration number 414609-99). i-wireless is 50% owned by The Kroger Co. and 50% owned by Genie Global Inc.

and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family and for contacting prospective employers. i-wireless offers consumers simple and affordable prepaid calling plans, a variety of prepaid service plans, easy-to-use handsets and high-quality customer service. Given its pricing and marketing strategy and the demographics of other, similar MVNOs' customers, i-wireless anticipates that many of its customers will be from low-income backgrounds and will not previously have enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. i-wireless does not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service.

By providing affordable wireless plans and quality customer service to consumers who are otherwise unable to afford them, or were previously ignored by traditional carriers, i-wireless will expand the availability of wireless services to many more consumers, which is the principal reason that Congress created the universal service program.

B. Company ETC Designations

Many regulatory authorities, including the FCC, have already recognized the benefit of i-wireless' Lifeline offering. On June 13, 2012, the FCC approved i-wireless' request for ETC designation in Alabama, Connecticut, Delaware, District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, and Virginia.⁹ i-wireless has also been designated as an ETC in Arkansas, Arizona, Colorado, Georgia, Indiana, Illinois, Kentucky, Louisiana, Maryland, Michigan, Missouri, Nevada, Ohio, South Carolina, Texas, Utah and West Virginia. The

⁹ See *In the Matter of Federal-State Joint Board on Universal Service, i-wireless, LLC Petition for Limited Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia*, WC Docket No. 09-197, Order, DA 12-934 (rel. June 13, 2012).

Company currently has applications for ETC designation pending with California, Kansas, Massachusetts, Minnesota, Mississippi, New Jersey, Pennsylvania, and Washington; no such petitions have been denied.

C. The Commission Has Jurisdiction to Designate Wireless ETCs.

Section 214(e)(2) of the Act provides state public utility commissions with the “primary responsibility” for the designation of ETCs.¹⁰ Although Section 332(c)(3)(A) of the Act prohibits states from regulating the entry of or the rates charged by any provider of commercial mobile service or any private mobile service, this prohibition does not allow states to deny wireless carriers ETC status.¹¹ Therefore, the Commission has the authority to designate i-wireless as an ETC. Pursuant to this authority, the Commission has historically participated in determining whether to grant ETC status to an applying carrier, including any requesting wireless carrier.¹² Under the Act, a state public utility commission with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of Section 214(e)(1). i-wireless recognizes that Section 214(e)(1)(A) of the Act states that ETCs shall offer services, at least in part, over their own facilities and that Section 54.201(i) of the FCC’s Rules (47 C.F.R. § 54.201(i)) prohibits state commissions from designating as an ETC a telecommunications carrier that offers services exclusively through the resale of another carrier’s services. However, on April 1, 2009, i-wireless filed with the FCC a petition requesting that the FCC exercise its forbearance authority under Section 10 of the Act

¹⁰ 47 U.S.C. § 214(e)(2).

¹¹ See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) (“*USF Order*”).

¹² See *In the Matter of Cingular Wireless Application for Designation as an Eligible Telecommunications Carrier*, Docket No. UM 1253, Order No. 07-111 (March 29, 2007).

(47 U.S.C. § 160) with respect to the facilities-based service requirement.¹³ The FCC granted the *Petition for Forbearance* for the purposes of participating in the Lifeline program in an Order dated June 25, 2010. Section 10(e) of the Act (47 U.S.C. § 160(e)) provides: “[a] State commission may not continue to apply or enforce any provision of this chapter that the [Federal Communications] Commission has determined to forbear from applying under subsection (a) of this section.” As such, the Commission is required by Section 10(e) to act in accordance with the FCC’s *i-wireless Forbearance Order*, and therefore, may not apply the facilities-based requirement to i-wireless. Therefore, the Commission has the authority under Section 214(e)(2) of the Act to grant i-wireless’ request for designation as an ETC throughout the State of Oregon.

III. I-WIRELESS SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.” Section 214(e)(2) of the Act authorizes state commissions, such as the Commission, to designate ETC status for federal universal service purposes and authorizes the Commission to designate wireless ETCs.¹⁴ Section 214(e)(1) of the Act and Section 54.201(d) of the FCC’s rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier’s services. However, as described herein, the FCC has granted i-wireless forbearance from the “own facilities” requirement. Applicants also

¹³ See *i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, filed Apr. 1, 2009, (“*Petition for Forbearance*”), Order, FCC 10-117 (rel. June 25, 2010) (“*i-wireless Forbearance Order*”). A copy of the *i-wireless Forbearance Order* is attached hereto as Exhibit 1.

¹⁴ *USF Order*, at 8858-59, ¶ 145.

must commit to advertise the availability and rates of such services.¹⁵ As detailed below, i-wireless satisfies each of the above-listed requirements and the requirements set forth in Appendix A to the Oregon ETC Order (referred to hereinafter as the “ETC Checklist Items”).

A. ETC Checklist Item 1 – Common Carrier Status

With respect to ETC Checklist Item 1.1, CMRS providers like i-wireless are treated as common carriers pursuant to federal regulations.¹⁶ With respect to ETC Checklist Item 1.2, i-wireless is authorized to provide telecommunications services in Oregon per the Commission Order No. 07-342 in docket CP 1375.

B. ETC Checklist Item 2 – Commitment and Ability to Provide All Supported Services

1. Statement of Commitment (ETC Checklist Item 2.1)

Through its wholesale arrangements with Sprint, i-wireless is able to provide all of the services and functionalities required by Section 54.101(a) and Section 54.202(a) of the FCC’s Rules (47 C.F.R. § 54.101(a) and 47 C.F.R. § 54.202(a)) and ETC Checklist Item 2.1 including:

a. Voice Grade Access to the Public Switched Telephone Network

i-wireless provides voice grade access to the public switched telephone network (“PSTN”) through the purchase of wholesale CMRS services from Sprint.

¹⁵ See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

¹⁶ *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory “mobile services” category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) (“mobile services” providers are common carriers); see also *PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) (“We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services and resellers of such services.”) (emphasis added).

b. Minutes of Use for Local Service

i-wireless provides minutes of use for local service at no additional charge to end users in its free Lifeline plan options as well as the discounted flat rate and unlimited plan options.

c. Access to Emergency Services

i-wireless provides 911 and E911 access for all of its customers, in accordance with FCC guidelines and to the extent the local government in a service area has implemented 911 or E911 systems. i-wireless also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets. As stated previously, i-wireless will provide access to emergency services consistent with the requirements in the *i-wireless Forbearance Order*.¹⁷

d. Toll Limitation for Qualified Low-Income Customers

In its *Lifeline and Link Up Reform Order*, the FCC stated that toll limitation would no longer be deemed a supported service.¹⁸ "ETCs are not 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."¹⁹ Nonetheless, i-wireless' offerings inherently allow Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid, or pay-as-you-go, basis. i-wireless' service, moreover, is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same. i-wireless will not seek reimbursement for toll limitation service.

¹⁷ See *i-wireless Forbearance Order* ¶ 11.

¹⁸ See *Lifeline and Link Up Reform Order* at ¶ 367.

¹⁹ See *Lifeline and Link Up Reform Order* at ¶ 49.

e. Other Services

While no longer required by 47 C.F.R. § 54.101(a), i-wireless provides dual tone multi-frequency (“DTMF”) signaling to expedite the transmission of call set up and call detail information throughout the network, single party service for the duration of each telephone call and not multi-party (or “party-line”) services, access to operator services, the ability to make interexchange, or long distance, telephone calls, and access to directory assistance services by dialing “411” from the provided wireless handsets.

2. Services Not Offered (ETC Checklist Item 2.2)

Because i-wireless will offer all required supported services, as described above, ETC Checklist item 2.2 is inapplicable.

3. i-wireless’ Lifeline Service Offerings (ETC Checklist Item 2.3)

i-wireless intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice usage at all price points. The Company’s Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other i-wireless prepaid customers, with one notable exception: prepaid Lifeline services will not require payment of an out-of-pocket fee by subscribers, but instead, i-wireless will receive support from the Lifeline program as compensation for providing those services. i-wireless will provide Lifeline service under the brand name “Access Wireless.” As Exhibit 2 demonstrates, i-wireless’ Lifeline service offering proposes to give eligible customers three (3) Lifeline Plan choices:

a. 150 Anytime Minutes Plan

Under the 150 Anytime Minute Plan, eligible customers enjoy a free handset, 150 anytime minutes, rollover minutes, free incoming text messages, free customer care calls and

participation in the Kroger loyalty Free Minute program, whereby they can earn free minutes simply by grocery shopping.

b. 250 Anytime Minutes Plan

Under this Plan, eligible customers receive a free handset and 250 anytime minutes. Customers will not qualify for rollover minutes, free incoming text messages, free customer care calls or participation in the Kroger loyalty Free Minute program, forgoing those perks for the higher level of minutes.

c. Retail Discount Plan

The third option allows Lifeline-eligible customers to choose from any i-wireless monthly retail plan (excluding a text-only plan) at a \$15 discount,²⁰ in accordance with the requirements in OAR 860-033-0010. Under this Retail Discount Plan, a customer can, for example, pay \$10 per month and receive 200 anytime minutes, unlimited text messaging and 200 megabytes of data, plus all of the perks listed under the 150 Anytime Minutes Plan above.

Customers can change their plan on their monthly plan date, without penalty, should they determine that another plan better meets their needs or if their needs change. i-wireless does not impose burdensome credit checks or long-term service contracts. Furthermore, i-wireless does not assess charges for activation or connection of service, and the 150 and 250 Anytime Minutes plans include all applicable taxes and fees. Minutes are credited to a customer's account at the beginning of every 30-day cycle, which is initiated on their Lifeline activation date.

A customer's handset does not have to be "on" to receive minutes, as i-wireless' operations are

²⁰ i-wireless currently offers a \$15 discount, comprised of \$12.75 federal and state USF-supported dollars and a contribution of \$2.25 from the Company; however, the Company may re-evaluate the discount applied to its retail plans based on the outcome of the FNPRM regarding a change in the federal Lifeline support amount. *See Lifeline and Link Up Reform Order* Section XIII.D. i-wireless commits that it will continue to offer a Lifeline discount at a minimum equal to the maximum federal and state Lifeline support amounts.

system-based, not handset-based. Customers may place calls to 911 without charge, regardless of account balance or activation status.

In addition to free voice services, prepaid Lifeline customers also will have access to voice mail, caller I.D. and call waiting services at no additional charge, even after their initial allotment of free minutes has been consumed. Customers are not bound by a local calling area requirement; all i-wireless plans come with domestic long distance at no extra charge and exceptional nationwide digital coverage on the Nationwide Sprint PCS Network. Unlike many carriers, i-wireless does not decrement minutes for incoming text messages, balance inquiries, or calls placed to customer service, and unused minutes carry over to the following month.²¹ Lifeline customers will receive an E911-compliant wireless handset at no charge, and i-wireless intends that all handsets will be data-capable, high quality refurbished phones. With data-capable phones, i-wireless customers are able to interface with online customer service and check the balance of their minutes for free at any time, regardless of their service plan. i-wireless Lifeline customers will have access to the same exceptional customer care provided to retail customers. The Company contracts with a high quality, U.S. domestic customer care group whose hold time is among the lowest in the prepaid wireless industry.

Furthermore, through i-wireless' partnership with The Kroger Co. ("Kroger"), the nation's largest grocery retail chain and the second largest retailer overall, customers can accumulate free minutes for dollars spent at participating Kroger-owned store locations simply by using their Kroger loyalty shopper's card.²² Currently, i-wireless has a presence in 55

²¹ These "perks" are not currently available on the 250 Anytime Minutes plan, as outlined in Exhibit 2.

²² The Kroger Co. has a 50% ownership interest in i-wireless. For every \$100 in qualified spending, 20 minutes will automatically be applied to a customer's account balance, or a \$1 credit will be applied to the account balance if

Kroger-owned Fred Meyer and Quality Food Center (collectively referred to as “Kroger”) stores in Oregon. Lifeline customers can participate in this Free Minutes program even when utilizing government-subsidized forms of payment. By way of example, households can receive up to a \$668 monthly Supplemental Nutrition Assistance Program (SNAP; formerly known as food stamps) allotment. These customers, taking the Company’s feature-rich 150 Anytime Minute Plan as an example, would qualify for an additional 134 free minutes, on average, per month. Added to their base plan, this would give them, on average, 284 minutes per month, along with all of the perks (rollover minutes, free incoming texts and world class customer care). Lifeline customers can purchase additional airtime if needed. Airtime cards are sold in denominations of \$10, \$20 and \$50, and additional minutes always cost only ten cents per minute. Additional airtime may be purchased at Kroger stores, over the phone (by calling the IVR or through customer care interface) or online. i-wireless sends low and depleted balance alerts in the form of a free text message to the customer, and also alerts the customer through a free text message when minutes have been added to their account.

4. Local Usage Requirement (ETC Checklist Item 2.4)

FCC rules no longer require an applicant for ETC designation to demonstrate that it offers a local usage plan that is "comparable" to the plan offered by the ILEC in the relevant service territory.²³ Nevertheless, consistent with ETC Checklist Item 2.4, not only will i-wireless’ offering be comparable to the underlying ILEC plans, it also will exceed them in several respects. Similar to ILEC Lifeline offerings, i-wireless customers will have the option to

the customer is on an unlimited voice plan. Detailed information on the Free Minutes program is located on the Company’s website, www.iwirelesshome.com.

²³ See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a).

apply the Lifeline discount to the Company's retail rate plans and will have the option for unlimited local calling on a flat-rate basis. With i-wireless, customers can choose from monthly plans, unlimited plans or pay-per-use plans without the burden of contracts or activation fees. Unlike the ILEC plans, i-wireless will offer customers a certain amount of service free of charge. In contrast to the ILEC plans, which contain relatively small local calling areas, i-wireless customers can use these free minutes to place calls statewide (or even nationwide) because the Company does not constrict customers' use by imposing a local calling area requirement. i-wireless will also provide Lifeline customers with E911 capabilities and access to voice mail, caller I.D., and call waiting services at no cost. The very nature of the wireless phone, i.e. mobility, has a tremendous benefit to many consumers, a benefit to which a monetary value cannot be easily assigned.

5. Equal Access Requirement (ETC Checklist Item 2.5)

In accordance with ETC Checklist Item 2.5, i-wireless acknowledges that it may be required to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area, and will abide by such a requirement.²⁴

C. ETC Checklist Item 3 - Proposed Designated Service Area

i-wireless is not a rural telephone company as defined in Section 153(37) of the Act (47 U.S.C. § 153(37)). Accordingly, i-wireless is required to describe the geographic area(s) within which it requests designation as an ETC. In accordance with ETC Checklist Item 3.1 (including 3.1.1 and 3.1.2), Exhibit 3 attached hereto comprises a map showing designated service area boundaries overlaid on the boundaries of all requested ILEC wire centers and a list of ILEC wire

²⁴ FCC rules no longer require ETC applicants to make this acknowledgement; *See id.*

centers included in the proposed designated service area. i-wireless' coverage area does not precisely correspond with each ILEC's because it is a wireless carrier. i-wireless provides its prepaid wireless service throughout Oregon wherever Sprint has the facilities to provide CDMA wireless service.²⁵ Sprint is authorized by the FCC to provide wireless service throughout the entire state of Oregon. Exhibit 3 lists the wire centers in which i-wireless, through its underlying carrier, provides substantial, if not total, coverage.

i-wireless will provide Lifeline service to qualifying customers making a reasonable request for service throughout the proposed designated service area, including those residing on tribal lands, in accordance with ETC Checklist Item 3.2.

D. ETC Checklist Item 4 – Types of Facilities

With respect to ETC Checklist Item 4.1, i-wireless will provide service through resale, utilizing facilities of its underlying carrier, Sprint. In the *i-wireless Forbearance Order*, The FCC conditionally granted i-wireless' *Petition for Forbearance* from the facilities requirement, "given the importance of public safety and in light of the fact that a Lifeline ETC is generally a low-income customer's only connection to the public switched telephone network."²⁶ The FCC further explained that "requiring a Lifeline provider to own the facilities it uses to offer service does not necessarily further the statutory goal of the low-income program."²⁷

The FCC specifically conditioned its grant of forbearance on i-wireless as follows:

- (a) i-wireless providing its Lifeline customers with basic 911 and enhanced 911 ("E911") access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its new Lifeline customers with E911-compliant handsets and replacing, at

²⁵ i-wireless offers a coverage check by zip code feature on its website, www.iwirelesshome.com.

²⁶ *i-wireless Forbearance Order* ¶ 11.

²⁷ *Id.* ¶ 15.

no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; (d) i-wireless obtaining a certification from each Public Service Answering Point (“PSAP”) where i-wireless seeks to provide Lifeline service confirming that i-wireless provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple i-wireless Lifeline subsidies at the same address, and (g) i-wireless dealing directly with the customer to certify and verify the customer’s Lifeline eligibility. The FCC required i-wireless to submit a plan describing the measures it would take to implement each of these conditions.²⁸

In accordance with the *i-wireless Forbearance Order*, i-wireless filed its Compliance Plan which the FCC approved on October 21, 2011.²⁹ A copy of the revised Compliance Plan, as approved, is attached to this Application as Exhibit 4. According to paragraph 383 of the *Lifeline and Link Up Reform Order*, i-wireless is no longer required follow the PSAP certification process outlined in the Company’s forbearance order and Compliance Plan. i-wireless has, however, already completed the PSAP certification process in Oregon and will continue to comply with applicable 911/E911 public safety obligations, including 47 C.F.R. § 20.18(m), the requirement to provide 911-enabled handsets, and any state-imposed requirements.³⁰

With respect to ETC Checklist Item 4.3, i-wireless has a resale agreement with its underlying carrier, Sprint. Exhibit 3 hereto provides the coverage map required by ETC

²⁸ See *Id.* ¶ 16.

²⁹ See i-wireless LLC’s Revised Compliance Plan, CC Docket No. 96-45, WC Docket No. 09-197 (filed Sept. 9, 2011) (“Compliance Plan”); *i-wireless, LLC Petition for Forbearance from 47 USC. §214(e)(1)(A)*, CC Docket No. 96-45, WC Docket No. 09-197, DA 11-1763, 2011 WL 5038791 (rel. Oct. 21, 2011) (“*Compliance Plan Order*”).

³⁰ See *Lifeline and Link-up Reform Order*, ¶ 375.

Checklist Item 4.2. The entire CDMA Coverage Area depicted thereon has signal strength of at least -98 dbm. Coverage maps are also available using a zip code search feature on the Company's website, www.iwirelesshome.com/coverage, and Lifeline website, www.accesswireless.com.

E. ETC Checklist Item 5 - Commitment to Use Support Funds Only for the Intended Purposes

The Company affirms that Lifeline support funds will be used only for the intended purposes and all funds will be passed through directly to the customer. Because i-wireless seeks ETC designation solely for purposes of receiving low income support and not high cost support, ETC Checklist Items 5.1 through 5.3 do not apply to i-wireless. The Commission has previously held that these requirements are inapplicable to applicants that do not request high-cost support.³¹

F. ETC Checklist Item 6 - Commitment to Advertise Supported Services

i-wireless will advertise the availability and rates for the services described above using media of general distribution as required by Section 54.201(d)(2) of the FCC's regulations and ETC Checklist Items 6.1, 6.2, and 7.³² The Company will engage in advertising campaigns specifically targeted to reach those likely to qualify for Lifeline services, promoting the availability of cost-effective wireless services to this neglected consumer segment.

i-wireless' partnership with Kroger presents a unique advantage when seeking to increase consumer awareness of the Lifeline program. Kroger has a long-standing relationship with the low-income consumer, and even caters to the consumer through store layout, such as clearly

³¹ *In re TracFone Wireless, Inc. Application for Designation as an Eligible Telecommunications Carrier*, Docket UM 1437, Order 12-149 (May 2, 2012) at 9 ("TracFone is limiting its request for ETC designation solely for the purpose of receiving low-income support and not high-cost support and is therefore exempt from these checklist provisions.").

³² See 47 C.F.R. § 54.201.

labeling food stamp-eligible items. i-wireless intends to utilize Kroger's existing relationship with Lifeline-eligible consumers in order to inform these consumers of their eligibility for Lifeline support. For example, when a customer pays with a government-subsidized form of payment at a Kroger store, their printed cash register receipt will automatically generate information informing them of their eligibility for the Lifeline program and how they can obtain more information.³³ i-wireless will also make use of the Kroger in-store radio, printed advertisements, and signage. Printed materials describing i-wireless' Lifeline program will be available at i-wireless in-store kiosks. Given the relationship that exists between i-wireless, Kroger, and low income consumers, i-wireless expects to be able to inform consumers of the availability of Lifeline service in a manner that will result in significantly higher participation in the Lifeline program by qualified consumers than has been the case in the past.

Though Kroger will be the initial and primary point of contact with consumers and a dynamic source for advertising the Lifeline program, i-wireless may also seek to reach eligible consumers outside of its Kroger footprint. i-wireless may advertise its Lifeline service using printed advertisements, billboards and public transit signage, and may also promote the availability of its Lifeline offerings by distributing brochures at various state and local social service agencies or partnering with nonprofit assistance organizations.

Statistics suggest there are many eligible customers who are not yet aware of the programs. According to the best data available to the Company, as of December 31, 2010, fewer than 20% of consumers eligible for Lifeline Services in the State of Oregon were being provided

³³ See attached Exhibit 5 for sample advertisements.

such services.³⁴ i-wireless believes that its advertising and outreach efforts detailed above will result in increased participation in the Lifeline program.

G. ETC Checklist Item 7 - Commitment to Offer and Advertise Lifeline and OTAP Services

In satisfaction of ETC Checklist Item 7.1, i-wireless is committed to offer and advertise Lifeline and OTAP services. With respect to ETC Checklist Item 7.2 and 7.3, the Company's service offerings are described in section III.B.3 and Exhibit 2, and the Company's advertising plan is described in section III.I above.

In order to offer Lifeline and OTAP services in Oregon, an ETC must also receive designation as an ETP. i-wireless has resubmitted its ETP application as Exhibit 7 attached hereto. ETP requirements are found in the RSPF Rules, OAR 860-033-0001 et seq. OAR 860-033-0005(c) requires an ETP comply with OAR 860-033-0005 through 860-033-0100. i-wireless will comply with OAR 860-033-0005 through 860-033-0100 with the exception of three requirements discussed herein, for which the Company requests waivers. The Commission is authorized to grant the requested waivers, for good cause shown, per OAR 860-033-0001(2). Furthermore, i-wireless does not seek ETC or ETP designation for purposes of participating in the Link Up program, therefore OAR 860-033-0050 through 860-033-0055 are not applicable to i-wireless.

The first rule for which a wavier is required is OAR 860-033-0006(3)(b), which would require i-wireless to collect the Residential Service Protection Fund ("RSPF") surcharge from its

³⁴ See attached Exhibit 6, 2010 Lifeline Participation Rates by State, which was obtained from the Universal Service Administrative Company ("USAC"), an independent not-for-profit corporation designated as the administrator of the federal Universal Service Fund by the FCC. USAC administers Universal Service Fund (USF) programs for high cost companies serving rural areas, low-income consumers, rural health care providers, and schools and libraries.

customers. Because i-wireless is a prepaid carrier that does not issue invoices and its Access Wireless Lifeline service does not require a financial contribution from the customer, i-wireless cannot collect surcharges from its customers. i-wireless will instead remit the applicable RSPF surcharge from i-wireless funds on behalf of its customers; thus, waiver of this requirement would have no financial impact upon the RSPF.

Due to the prepaid nature of i-wireless' service, the Company does not issue bills to its customers. OAR 860-033-0006(3)(c) would require i-wireless to identify the RSPF surcharge on each customer's bill. Good cause exists for waiver of OAR 860-033-0006(3)(c), especially since, in conjunction with waiver of OAR 860-033-0006(3)(b), i-wireless, not the customer, would pay the RSPF surcharge. Similarly, waiver is required for OAR 860-033-0030(6), which requires the name of an OTAP applicant to appear on the billing statement. In Docket UM 1437, the Commission approved a stipulation to modify the application process to require only that the name of the applicant appear on the customer account in lieu of a billing statement.³⁵ i-wireless requests this modification as well.

i-wireless will comply with OAR 860-033-0030 pertaining to Lifeline eligibility. i-wireless supports the Commission's comprehensive role in the administration of Lifeline and OTAP services. The Company understands that applicants must submit to the Commission a completed application for Lifeline and the Commission Staff must certify each applicant's initial eligibility. In addition, the Commission verifies an individual's continuing eligibility based on monthly or quarterly recertification by the Commission using a secure, automatic data interface with the Department of Human Services. A report of Lifeline customers approved by

³⁵ *In re TracFone Wireless, Inc. Application for Designation as an Eligible Telecommunications Carrier*, Docket UM 1437, Order 12-149 (May 2, 2012) at 16.

Commission Staff is then electronically sent to the Lifeline customer's respective ETP. i-wireless will de-enroll any customer that is determined ineligible by the Commission.

i-wireless will also comply with OAR 860-033-0046 pertaining to OTAP reporting requirements. i-wireless proposes to consolidate the Active OTAP Customer Report with the Order Activity Report. The consolidated report would also identify Lifeline customers who have been de-enrolled according to the Company's non-usage policy outlined in Section III.M.5. Regarding the No Match Report, i-wireless proposes that it should have the ability, as agreed to in the TracFone Stipulation in Docket UM 1437, to revisit the required frequency of the Report with Staff after one year to determine if a less frequent report is warranted.³⁶

H. ETC Checklist Item 8 - Ability to Remain Functional in Emergencies

In accordance with 47 CFR §54.202(a)(2), i-wireless, through its underlying carrier, has the ability to remain functional in emergency situations. Sprint has attained full E911 deployment as required by 47 CFR §54.202(a)(1) and ETC Checklist Items 8.1 through 8.2. Through its agreement with Sprint, i-wireless customers have the same access to 911 and E911 services as Sprint's own customers.³⁷ In addition, Sprint has reasonable amounts of back-up power and the ability to reroute traffic around damaged facilities and manage traffic spikes resulting from emergency situations. Each cell site in the Sprint network is equipped with two to four hours of battery back-up power. Many cell sites in the Sprint network provide overlapping coverage for neighboring areas, ensuring that coverage continues in the event of damage to a

³⁶ *In re TracFone Wireless, Inc. Application for Designation as an Eligible Telecommunications Carrier*, Docket UM 1437, Order 12-149 (May 2, 2012) at Appendix A, page 9.

³⁷ See Exhibit 9 for a 911 certification from Sprint.

particular facility. These neighboring cell sites can be adjusted to provide coverage to a wider service area in the event of an emergency.

I. ETC Checklist Item 9 - Commitment to Meet Service Quality and Consumer Protection Standards

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.³⁸ As a reseller, i-wireless' service is of the same quality and reliability as that of its underlying carrier(s). The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. Specifically, i-wireless commits to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service. In accordance with ETC Checklist Item 9.2, i-wireless commits to resolve complaints received by the Commission and will designate a contact person to work with the Commission's Consumer Services Division for complaint resolution.

i-wireless also commits to exceptional customer service standards. i-wireless contracts with a high quality, U.S. domestic customer care group. Customers are able to contact i-wireless customer care for free via a toll free number or by dialing 611 from their i-wireless phone. Customers are also able to contact Customer Care via the Company's website or by mail. Customers may visit i-wireless retail locations to ask questions or buy additional airtime, should they wish to do so. i-wireless is committed to resolving customer questions, concerns and complaints in a swift and satisfactory manner.

³⁸ See 47 C.F.R. § 54.202(a)(3); See also Appendix A (Initial Designation §Application Requirement 9.1)..

J. ETC Checklist Item 10 - Public Interest Showing

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.³⁹ Designation of i-wireless as an ETC in Oregon will further the public interest by providing Oregon consumers, especially low-income consumers, with low prices and high quality services. Many low-income customers in Oregon have yet to reap the full benefits of the intensely competitive wireless market. Whether because of financial constraints, poor credit history or intermittent employment, these consumers often lack the countless choices available to most consumers.

The instant request for ETC designation must be examined in light of the Act’s goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating i-wireless as an ETC would significantly benefit low-income consumers eligible for Lifeline services in the State of Oregon—the intended beneficiaries of universal service.

1. The Benefits of Consumer Choice

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than three decades.⁴⁰ Designation of i-wireless as an ETC will promote competition and innovation, and spur other carriers to target low-income consumers with service offerings tailored to their needs

³⁹ *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

⁴⁰ *See, e.g., Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

and to improve their existing networks to remain competitive, resulting in improved services to consumers. Designation of i-wireless as an ETC will help assure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.⁴¹ Introducing i-wireless into the market as an additional wireless ETC provider will afford low-income Oregon residents a wider choice of providers and available services while creating a competitive marketplace as ETCs compete for a finite number of eligible customers. Increasing the competitive marketplace of providers has the potential to effectively increase the penetration rate and reduce the number of individuals not connected to the PSTN.

2. Advantages of i-wireless’ Service Offering

i-wireless’ Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Company customers. i-wireless’ Lifeline rate plans will not only allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber, but also will bring a variety of rate plans into the reach of Lifeline customers that are comparable in minutes and features to those available to post-paid wireless subscribers – but at low Lifeline rates and without the burden of credit checks, contracts, or activation fees. i-wireless’ affiliation with Kroger awards the consumer exclusive benefits, such as the Free Minutes program, and at the same time grants i-wireless both proximity to and unique insight into the Lifeline-eligible consumer.

i-wireless foresees that the implementation of its Lifeline program will create the need for more i-wireless employees in Oregon. i-wireless currently employs two Oregon residents as field sales representatives who travel to work with all store locations throughout the state. i-

⁴¹ See 47 U.S.C. § 254(b)(1).

wireless believes that the Company will need to expand its number of Oregon sales representatives once its Lifeline program is underway, and anticipates that Kroger will likely need to hire more Oregon residents as well.

Most importantly, i-wireless' Lifeline service will provide low-income Oregon residents with the convenience and security offered by wireless services—even if their financial position deteriorates. According to the U.S. Department of Labor Bureau, Oregon's unemployment rate was 8.7% as of July 2012. The economic circumstances indicate that low-income individuals, now more than ever, can greatly benefit from the advantages offered by the Company's Lifeline service. Without question, prepaid wireless services have become essential for low-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents. Providing i-wireless with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

Moreover, grant of i-wireless' Application will serve the public interest in increasing the number of ETCs in Oregon. By granting ETC status to i-wireless, the Commission will enable i-wireless to increase the number of Oregon residents receiving Lifeline support, thereby increasing the amount of USF money flowing into Oregon. In sum, ETC designation in the State of Oregon would enable i-wireless to provide all of the public benefits cited by the FCC in its analysis in the *Virgin Mobile Order*. Namely, i-wireless would provide “increased consumer

choice, high-quality service offerings, and mobility,”⁴² as well as the safety and security of effective 911 and E911 services.⁴³

3. i-wireless will Contribute to RSPF and 911

i-wireless hereby affirms that it will remit all applicable assessments, fees, surcharges, and taxes - including those that support 911 and RSPF services.

4. Impact on the Universal Service Fund

With Lifeline, ETCs only receive support for customers they obtain. The amount of support available to an eligible subscriber is exactly the same whether the support is given through a company such as i-wireless or the Incumbent LEC operating in the same service area. i-wireless will only increase the amount of USF funding in situations where it obtains customers not enrolled in another ETC’s Lifeline program. By implementing the safeguards set forth in the *Lifeline and Link Up Reform Order*, i-wireless will minimize the likelihood that its customers are not eligible or are receiving duplicative support either individually or within their household. Significantly, i-wireless’ designation as an ETC will not increase the number of persons eligible for Lifeline support. i-wireless’ ability to increase the participation rate of qualified low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service, and thus any incremental increases in Lifeline expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers. As noted in the FCC’s *i-wireless Forbearance Order*, “the additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public

⁴² See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

⁴³ See *Id.* at 3391 ¶ 23.

interest,”⁴⁴ and “A new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance [associated with granting i-wireless’ *Petition for Forbearance*] in the context of the Lifeline program outweighs the potential costs.”⁴⁵

5. Prevention of Waste, Fraud and Abuse

i-wireless recognizes the importance of safeguarding the USF. Therefore, the Company has implemented the following 60-day non-usage policy in an effort to avoid waste, fraud, and abuse of the program. i-wireless will not seek reimbursement from the USF for inactive subscribers who have not used the service for a consecutive 60-day period.⁴⁶ i-wireless will notify its subscribers at service initiation about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time.⁴⁷ An account will be considered active if during any 60-day period the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from the Company to add to an existing pre-paid Lifeline account; completes an outbound call; initiates an outbound SMS or data usage; 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.⁴⁸ i-wireless will provide the subscriber 30 days’ notice, using clear, easily understood language, that the subscriber’s failure to use the Lifeline service within the 30-day notice period will result in service

⁴⁴ *i-wireless Forbearance Order*, ¶ 19.

⁴⁵ *Id.*

⁴⁶ *See Lifeline and Link Up Reform Order* at ¶ 257.

⁴⁷ *See id.*

⁴⁸ *See Lifeline and Link Up Reform Order* at ¶ 261.

termination for non-usage; such notice may be given after 30 days of non-usage. Customers that have been deactivated may participate in the Company's Lifeline service in the future by reapplying and re-establishing eligibility. i-wireless will be prepared to provide reports to the Commission on a monthly or quarterly basis detailing the number of customers that are de-enrolled from the Company's Lifeline program due to inactivity.

i-wireless believes that the first line of defense against fraud and abuse is to partner with high quality channels and organizations. By emphasizing the social benefits of the program and partnering with those focused on the benefits to their constituents, the Company believes that it can avoid potential misuse of the program. To further protect the integrity of the USF, i-wireless has contracted with CGM, LLC, a Georgia-based Lifeline service bureau, to edit all subsidy request data. CGM will process and validate i-wireless' subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from i-wireless will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) Inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described above, i-wireless ensures that it does not over-request from support funds.

6. No Creamskimming Analysis Is Required

i-wireless does not request ETC designation in any service areas which will not include the entire study area of a rural ILEC, therefore a creamskimming analysis is not required.

K. Financial and Technical Capability

i-wireless is financially and technically capable of providing Lifeline-supported services.⁴⁹ i-wireless is 50% owned by Kroger, the nation's largest grocery retail chain and the second largest retailer overall. i-wireless has been in business for 6 years and already successfully provides wireless services throughout the United States; i-wireless has been granted ETC designation in a total of 26 states and the District of Columbia, and is currently providing Lifeline service in 16 states. i-wireless has not been subject to enforcement action or ETC revocation proceedings in any state. i-wireless is financially able to provide Lifeline-supported services; the Company does not, and does not intend to, offer exclusively Lifeline-supported services—and is therefore not exclusively dependent on universal service support for its revenue. i-wireless is fully capable of honoring all its service obligations to customers and regulatory obligations to state and federal regulators. Furthermore, the senior management of i-wireless has great depth in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to the Company.⁵⁰ i-wireless will be providing resold wireless service, and therefore will also rely upon the managerial and technical expertise of its underlying carrier.

IV. ANNUAL RECERTIFICATION REQUIREMENTS

By this Application, i-wireless hereby asserts its willingness and ability to comply with all the rules and regulations that the Commission may lawfully impose upon the Company's provision of service contemplated by this Application. The Company will comply with the

⁴⁹ See *Lifeline and Link Up Reform Order* at ¶ 387.

⁵⁰ See Exhibit 10 for key management resumes.

annual recertification requirements set forth in the *Oregon ETC Order* that are applicable to i-wireless as a prepaid wireless reseller, with the following modifications:

A. Outage Report

i-wireless must rely upon Sprint's submission of its own annual outage report to the Commission, as i-wireless is not privy to the data required to generate such a report. Accordingly, i-wireless requests a waiver of this annual recertification requirement.

B. Trouble Report

i-wireless will provide the required report but cannot break the information down by wireless switch. i-wireless uses the Sprint network to handles its calls, and any data collected from Sprint's four wireless switches in Oregon is aggregated for all Sprint customers, including Lifeline and non-Lifeline i-wireless customers, and cannot be separated out by switch. Accordingly, i-wireless requests a modification of this annual recertification requirement to allow data from all switches to be submitted in aggregate.

C. 7.1 through 7.3

Requirements 7.1 through 7.3 pertain to use of high cost funds. Because i-wireless seeks ETC designation solely for purposes of receiving low income support and not high cost support, sections 7.1 through 7.3 do not apply to i-wireless, and i-wireless requests waiver of those requirements.

V. ANTI-DRUG ABUSE CERTIFICATION

i-wireless certifies that no party to this Application is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

VI. CONCLUSION

Based on the foregoing, designation of i-wireless as an ETC in the State of Oregon accords with the requirements of Section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, i-wireless respectfully requests that the Commission promptly designate i-wireless as an ETC in the State of Oregon solely for purposes of participating in the Lifeline program.

Respectfully submitted,

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August 31, 2012

EXHIBIT 1

i-wireless Forbearance Order

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A))	

ORDER

Adopted: June 22, 2010

Released: June 25, 2010

By the Commission:

I. INTRODUCTION

1. In this order, we grant in part and deny in part a petition for forbearance filed by i-wireless, LLC (i-wireless), a prepaid wireless resale provider, requesting that the Commission forbear from the requirement that a carrier designated as an eligible telecommunications carrier (ETC) for purposes of federal universal service support provide services, at least in part, over its own facilities.¹ As a result, i-wireless may seek ETC designation to offer discounted service to qualified low-income consumers through the universal service Lifeline program. i-wireless will be subject to the same conditions that the Commission previously applied to prepaid wireless resellers TracFone Wireless, Inc. and Virgin Mobile USA, L.P. in granting similar requests. The conditions will help to ensure that, if i-wireless is granted ETC designation for the purpose of providing Lifeline service, its low-income consumers have access to 911 and enhanced 911 services and will help to protect the universal service fund against waste, fraud and abuse. However, we deny i-wireless’s petition for forbearance for the purposes of participating in the Link Up program because the company has not demonstrated that granting its request satisfies the three-prong statutory test for forbearance.²

II. BACKGROUND

2. Congress directed the Commission to establish the universal service fund to help ensure that “[q]uality services [are] available at just, reasonable, and affordable rates” for consumers throughout the nation, “including low-income consumers.”³ The Commission’s Lifeline program furthers this goal by reducing the price of monthly telephone service for low-income consumers, and the Commission’s

¹ i-wireless, LLC Petition for Forbearance, CC Docket No. 96-45 (filed Apr. 1, 2009) (Forbearance Petition). On March 23, 2010, pursuant to section 10(c) of the Act, the Wireline Competition Bureau (Bureau) extended until June 30, 2010, the date on which the Forbearance Petition shall be deemed granted in the absence of a Commission decision that the petition fails to meet the standard for forbearance under section 10(a) of the Act. *i-wireless, LLC Petition for Forbearance*, CC Docket No. 96-45, Order, 25 FCC Rcd 2762 (Wireline Comp. Bur. 2010); 47 U.S.C. § 214(e).

² 47 U.S.C. § 160(a).

³ 47 U.S.C. § 254(b)(3).

Link Up program furthers this goal by reducing the customary connection charge for commencing telephone service at a low-income consumer's principal place of residence.⁴

3. The Communications Act of 1934, as amended (the Act), provides that only an entity designated as an eligible telecommunications carrier shall be eligible for universal service high-cost and low-income support.⁵ To become an ETC, a common carrier must offer the services supported by the federal universal service support mechanisms "either using its own facilities or a combination of its own facilities and resale of another carrier's services" to each customer in its designated service area.⁶ Carriers designated as ETCs generally must participate in the Lifeline and Link Up programs and are reimbursed for the revenues foregone through their participation in these programs.⁷

4. The Commission has granted two petitions for forbearance from the facilities requirement for ETC designation in section 214(e) of the Act. In 2005, the Commission forbore from applying the facilities requirement to TracFone Wireless, Inc. (TracFone), a wireless reseller, insofar as TracFone sought ETC designation only for the purpose of receiving Lifeline support.⁸ Similarly, in 2009, the Commission forbore from applying the facilities requirement to another wireless reseller, Virgin Mobile USA, L.P. (Virgin Mobile).⁹ In both orders, the Commission conditioned forbearance on the carriers' meeting certain obligations upon being designated as an ETC that are tailored to the concerns arising from each carrier's lack of facilities and proposed service offering.¹⁰

⁴ Through the Lifeline program, low-income consumers may receive discounts of up to \$13.50 off the monthly cost of telephone service, with the federal program reimbursing the ETC up to \$10 each month. 47 C.F.R. § 54.401(a)(2). In tribal areas, the federal program reimburses ETCs up to an additional \$25 each month. 47 C.F.R. § 54.405(a)(4). Through the Link Up program, low-income consumers may receive discounts of up to \$30 off the connection charge. 47 C.F.R. § 54.411(a)(1). In tribal areas, low-income consumers may receive up to an additional \$70 off the connection charge. 47 C.F.R. § 54.411(a)(3).

⁵ 47 U.S.C. § 254(e). A carrier need not be an ETC to participate in the schools and libraries or rural health care universal service programs. 47 U.S.C. § 254(h)(1)(A) and (B)(ii); see *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9015, para. 449 (1997) (*Universal Service First Report and Order*) (subsequent history omitted); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-46, Fourteenth Order on Reconsideration, 14 FCC Rcd 20106, 20114-15, para. 19 (1999) (*Fourteenth Order on Reconsideration*).

⁶ 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)(1). Because a carrier need not be an ETC to participate in the schools and libraries or rural health care universal service programs, a carrier need not offer service over its own facilities to receive support from those programs. See *supra* note 5.

⁷ See 47 C.F.R. § 54.407(b)-(c). ETCs designated for the limited purpose of participating in the Lifeline program, in contrast, may only receive Lifeline support.

⁸ *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (*TracFone Forbearance Order*).

⁹ *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petition for Designation as an Eligible Telecommunications Carrier in the State of New York; Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of North Carolina; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) (*Virgin Mobile Forbearance Order*).

¹⁰ Specifically, each carrier must: (1) provide its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (2) provide its Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (3) comply with conditions (1) and (2) as of the date it provides Lifeline service; (4) obtain a certification from each public-safety answering point (PSAP) where the carrier provides Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certify that it does so if certain conditions are met; (5) require each customer to self-certify at time of service activation and (continued . . .)

5. *i-wireless Forbearance Petition.* Like Tracfone and Virgin Mobile, i-wireless is a non-facilities-based commercial mobile radio service (CMRS) provider (i.e., a pure wireless reseller) that provides prepaid wireless telecommunications services.¹¹ On April 1, 2009, i-wireless filed a petition seeking forbearance from the facilities requirement of section 214(e) of the Act so that it may be designated as an ETC and be eligible to receive Lifeline and Link Up low-income support.¹² i-wireless states that its request for forbearance satisfies the statutory requirements and is in the public interest.¹³ Further, i-wireless agrees to abide by the conditions imposed on TracFone and Virgin Mobile as part of the Commission's decisions granting those carriers' requests to forbear from the ETC facilities requirement to allow them to receive Lifeline support only.¹⁴

III. DISCUSSION

6. The Act requires the Commission to forbear from applying any requirement of the Act or of our regulations to a telecommunications carrier if and only if the Commission determines that: (1) enforcement of the requirement is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of that requirement is not necessary for

(continued from previous page) _____
 annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier; (6) establish safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address; (7) deal directly with the customer to certify and verify the customer's Lifeline eligibility; and (8) submit to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement these conditions. *See id.* at 3386–87, 3392, paras. 12, 26; *TracFone Forbearance Order*, 20 FCC Rcd at 15098–99, 15104, paras. 6, 19; *Federal-State Joint Board on Universal Service; TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York; Petition for Designation as an Eligible Telecommunications Carrier in the State of Florida; Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia; Petition for Designation as an Eligible Telecommunications Carrier in the State of Connecticut; Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Massachusetts; Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama; Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina; Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee; Petition for Designation as an Eligible Telecommunications Carrier in the State of Delaware for the Limited Purpose of Offering Lifeline Service to Qualified Households; Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire for the Limited Purpose of Offering Lifeline Service to Qualified Households; Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania for the Limited Purpose of Offering Lifeline Service to Qualified Households; Petition for Designation as an Eligible Telecommunications Carrier in the District of Columbia for the Limited Purpose of Offering Lifeline Service to Qualified Households*, CC Docket No. 96-45, Order, 24 FCC Rcd 3375 (2009) (*TracFone Forbearance Modification Order*).

¹¹ Forbearance Petition at 2.

¹² *See* Forbearance Petition. On June 5, 2009, the Bureau issued a public notice seeking comment on the Forbearance Petition. *Comment Sought on i-wireless, LLC Petition for Forbearance from Eligible Telecommunications Carrier Facilities Requirement*, CC Docket No. 96-45, Public Notice, 24 FCC Rcd 7682 (Wireline Comp. Bur. 2009). Comments on the Forbearance Petition were filed by the National Association of State Utility Consumer Advocates (NASUCA) and the National Emergency Number Association (NENA). Reply comments were filed by NASUCA, i-wireless, and the Pennsylvania Public Utility Commission (Pennsylvania Commission). We interpret i-wireless's petition to request forbearance not only from the statutory facilities requirement, 47 U.S.C. § 214(e)(1)(A), but also from our parallel regulatory requirements, 47 C.F.R. § 54.201(d)(1), (i). We have previously read these requirements to have the same scope and purpose as the statutory provision. *See Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3386–87 n.41.

¹³ Forbearance Petition at 8–13.

¹⁴ Forbearance Petition at 13; *TracFone Forbearance Order*, 20 FCC Rcd at 15098–99, 15104, paras. 6, 19; *Virgin Mobile Forbearance Order*, 24 FCC Rcd 3386–87, 3392, paras. 12, 26.

the protection of consumers; and (3) forbearance from applying that requirement is consistent with the public interest.¹⁵ As in the *TracFone Forbearance Order* and the *Virgin Mobile Forbearance Order*, we examine the facilities requirement from which i-wireless seeks forbearance in light of the statutory goal of providing low-income consumers with access to telecommunications services and in light of the specific programs in which i-wireless seeks to participate. Because our prior orders have laid the path for examining forbearance requests in the context of the Lifeline program, we first evaluate i-wireless's petition in that context. We then turn to the new issue of whether i-wireless has demonstrated that the statutory requirements for forbearance are met in the context of the Link Up program.

A. Forbearance for Lifeline

7. In this section, we evaluate whether i-wireless has met the three-prong statutory test for forbearance to receive Lifeline support. For the reasons provided below, we conditionally grant the request of i-wireless for forbearance from the facilities requirement of section 214(e) for the purpose of seeking ETC designation to provide Lifeline support only.

8. *Just and Reasonable.* As an initial matter, we note that a provision or regulation is “necessary” if there is a strong connection between the requirement and regulatory goal.¹⁶ Section 10(a)(1) of the Act requires that we consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation for Lifeline support only is necessary to ensure that the charges, practices, classifications or regulations are just and reasonable and not unjustly or unreasonably discriminatory.¹⁷

9. As the Commission found in the *TracFone Forbearance Order* and the *Virgin Mobile Forbearance Order*, we conclude that the section 214(e) facilities requirement is not necessary to ensure that i-wireless's charges, practices, and classifications are just and reasonable and not unjustly or unreasonably discriminatory where it is providing Lifeline service only.¹⁸ As a reseller, i-wireless is by definition subject to competition. We expect that i-wireless's Lifeline offerings will compete, at a minimum, with the Lifeline offerings of the incumbent wireline carrier in a given geographic area, and potentially, depending on the states where i-wireless seeks ETC designation, with the offerings of TracFone and Virgin Mobile.¹⁹ We also expect that this competition will spur innovation amongst carriers in their Lifeline offerings, expanding the choice of Lifeline products for eligible consumers. For these reasons, we find that the first prong of section 10(a) is met. In the limited context of Lifeline support, the facilities requirement is not necessary to ensure that i-wireless's charges, practices, and classifications are just and reasonable.

10. *Consumer Protection.* Section 10(a)(2) requires that we consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation only for Lifeline support is necessary for the protection of consumers. As in the cases of TracFone and Virgin Mobile, we find that imposing the facilities requirement on i-wireless is not necessary for the protection of consumers so long as the carrier complies with the obligations described below. Specifically, we conclude that forbearance from this provision will benefit consumers. Indeed, if i-wireless is ultimately granted limited ETC status, it would be offering Lifeline-eligible consumers an additional choice of providers for accessing telecommunications services. The prepaid feature may be an

¹⁵ 47 U.S.C. § 160(a)–(b). In making a public interest determination, section 10(b) requires the Commission to consider whether forbearance will promote competitive market conditions.

¹⁶ See *CTIA v. FCC*, 330 F.3d 502, 512 (D.C. Cir. 2003).

¹⁷ 47 U.S.C. § 160(a)(1); 47 U.S.C. § 214(e).

¹⁸ See *TracFone Forbearance Order*, 20 FCC Rcd at 15100, para. 12; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389, para. 20.

¹⁹ See 47 C.F.R. § 54.405(a) (requiring ETCs to offer Lifeline service).

attractive alternative for such consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

11. Given the importance of public safety and in light of the fact that a Lifeline ETC is generally a low-income customer's only connection to the public switched telephone network, however, we condition this grant of forbearance on i-wireless's compliance with certain obligations upon being designated as an ETC, consistent with the public safety obligations previously imposed on TracFone and Virgin Mobile.²⁰ Specifically, our forbearance is conditioned on i-wireless:

- (1) providing its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes;
- (2) providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service;
- (3) complying with conditions (1) and (2) as of the date it provides Lifeline service; and
- (4) obtaining a certification from each PSAP where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met.

12. The Commission has an obligation to promote "safety of life and property" and to "encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure" for public safety.²¹ The provision of 911 and E911 services is critical to our nation's ability to respond to a host of crises, and this Commission has a longstanding and continuing commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including Lifeline customers.²² As we have held previously, we believe these obligations are necessary to ensure that the Lifeline customers of these wireless resellers have meaningful access to emergency services.²³

13. Consistent with the obligations we have placed on TracFone and Virgin Mobile, these obligations apply in any state in which i-wireless becomes an ETC and plans to serve any customers without using its own facilities. Additionally, i-wireless must furnish to the Commission upon request copies of all certifications required by the fourth obligation.²⁴ Furthermore, if i-wireless seeks to use the self-certification option, it may do so only after complying with the following procedures. *First*, i-wireless must request certification from the PSAP and notify the PSAP that the carrier may self-certify compliance if the PSAP has neither provided certification nor made an affirmative finding that the carrier does not provide its customers with access to 911 and E911 service within the PSAP's service area within 90 days of the request. This evaluation period commences upon proper notification.²⁵ The evaluation

²⁰ See *TracFone Forbearance Order*, 20 FCC Rcd at 15101-02, paras. 15-16; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390-91, paras. 21-23.

²¹ *Applications of Nextel Communications, Inc. and Sprint Corporation For Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-63, Memorandum Opinion and Order, 20 FCC Rcd 13967, 14020, para. 144 (2005).

²² *Id.*

²³ See *TracFone Forbearance Order*, 20 FCC Rcd at 15101-02, paras. 15-16; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390-91, para. 21-23.

²⁴ See *Virgin Mobile ETC Designation Order*, 24 FCC Rcd at 3390, para. 22.

²⁵ *Id.* at 3390-91, para. 22. Consistent with the *Virgin Mobile Forbearance Order*, in providing notice that it may self-certify, i-wireless must provide a PSAP with all of the information and/or equipment requested by the PSAP in analyzing i-wireless's ability to provide 911 and E911 to its customers.

period is tolled whenever a PSAP reasonably requests information or equipment to evaluate the carrier's request until the carrier responds with that information or equipment.²⁶ If a PSAP determines that the carrier will not offer its Lifeline customers appropriate access to emergency services or has concerns regarding the carrier's ability and if the PSAP notifies the carrier of its concerns during the evaluation period, the evaluation period is extended by an additional 90 days and the carrier may not self-certify compliance until it has addressed the PSAP's concerns.²⁷ *Second*, before self-certifying, the carrier must obtain from its underlying carrier in that area certification that the underlying carrier routes emergency calls from the carrier's customers to the PSAP in the same manner that it routes emergency calls from its own customers.²⁸ *Third*, the carrier must provide the PSAP with a copy of the relevant self-certifications at the time it is effective.²⁹ *Fourth*, if a PSAP finds that i-wireless does not provide its customers with 911 and E911 access after the carrier has self-certified that it does, the carrier must notify the Commission of this finding upon receiving notice and must explain how it plans to meet the PSAP's concerns and provide Lifeline customers with appropriate 911 and E911 access.³⁰

14. Accordingly, we find that, subject to the 911 and E911 conditions and the self-certification and other conditions set out above, and consistent with the Commission's grant of forbearance to TracFone and Virgin Mobile, the ETC facilities-based requirement is not necessary for consumer protection with respect to i-wireless's receipt of Lifeline support only. We therefore conclude that the second element of section 10(a) is satisfied.

15. *Public Interest.* Section 10(a)(3) requires that we consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation for Lifeline support only is in the public interest. In evaluating whether forbearance is in the public interest, we follow the path we laid out in the *TracFone Forbearance Order* and the *Virgin Mobile Forbearance Order*. We note first that the Commission's traditional concern with a carrier doubling its recovery by reselling facilities that are already supported by the high-cost fund does not apply in the low-income context.³¹ We also note that Lifeline support is designed to reduce the monthly cost of telecommunications service for qualifying low-income consumers and is directly reflected in the price that the low-income customer pays.³² Requiring a Lifeline provider to own the facilities it uses to offer service does not necessarily further the statutory goal of the low-income program.³³ In accordance with our forbearance grants to TracFone and Virgin Mobile, we find that the public interest is served by forbearing from the facilities requirement in section 214(e) to allow i-wireless to receive Lifeline support.³⁴

²⁶ *Id.* at 3391, para. 22.

²⁷ *Id.* at 3390 n.67.

²⁸ *Id.* at 3391, para. 22. Like other certifications, the carrier is required to retain these underlying carrier certifications and provide them to the Commission upon request.

²⁹ *Id.*

³⁰ *Id.*

³¹ See *TracFone Forbearance Order*, 20 FCC Rcd at 15100-01, para. 12; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389, para. 18.

³² 47 C.F.R. §§ 54.401, 54.504.

³³ See *TracFone Forbearance Order*, 20 FCC Rcd at 15104-05, para. 23; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393, para. 29.

³⁴ See *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392-93, para. 27 (“[W]e do not believe that similar requests will have a detrimental impact on the fund. We note that to the extent any similarly situated prepaid wireless reseller seeks forbearance from these requirements for the purpose of providing only Lifeline support, it (continued . . .)

16. Continued growth of the universal service fund has highlighted in recent years the importance of the Commission's continued commitment to fight waste, fraud, and abuse. Accordingly, in addition to the consumer protection conditions outlined above and consistent with obligations imposed on TracFone and Virgin Mobile, we find that it is necessary to require i-wireless to assume additional obligations designed to protect against waste, fraud, and abuse.³⁵ Specifically, we condition our forbearance from the facilities requirement on i-wireless:

- (5) requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier;
- (6) establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address;
- (7) dealing directly with the customer to certify and verify the customer's Lifeline eligibility; and
- (8) submitting to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement the obligations contained in this order within 30 days of the effective date of this order.

17. As we have held previously, we believe these obligations are necessary safeguards to help deter waste, fraud, and abuse.³⁶ These obligations apply in any state in which i-wireless becomes an ETC and plans to serve any customers without using its own facilities. Consistent with the obligations we have placed on TracFone and Virgin Mobile, we require i-wireless to clearly state the penalties for perjury on the self-certification form it uses to comply with the fifth obligation and to monitor compliance of its customers' self-certifications by retaining those self-certifications and providing them, as well as documentation of how the carrier obtained the certification, to the Commission upon request.³⁷

18. We disagree with parties that argue that we should condition our forbearance on i-wireless complying with additional obligations, such as offering a particular usage package or complying with state-level 911 and E911 obligations.³⁸ We believe it is appropriate to leave those assessments to whichever commissions will rule on i-wireless's petitions for designation as an ETC. A state commission is generally in a better position than we to assess whether a particular offering will benefit that state's low-income consumers and to determine whether it is necessary to condition ETC designation on compliance with state-level 911 and E911 obligations.³⁹ We therefore encourage parties arguing for

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will be expected to comply with all the conditions we imposed upon TracFone, which Virgin Mobile has agreed to do.”).

³⁵ See *TracFone Forbearance Order*, 20 FCC Rcd at 15103–04, 15105, paras. 18, 25; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392, para. 25.

³⁶ These obligations are in addition to, and do not supplant, the certification and verification eligibility already required by our rules for federal default states and any similar state rules for the non-federal default states. See, e.g., 47 C.F.R. § 54.410. On May 4, 2010, the Commission asked the Federal-State Joint Board on Universal Service to review the Commission's eligibility, verification, and outreach rules for the Lifeline and Link Up universal service programs. See *Federal-State Joint Board on Universal Service; Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Order, 25 FCC Rcd 5079 (2010).

³⁷ See *TracFone Forbearance Order*, 20 FCC Rcd at 15103–04, 15105, paras. 18, 25; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392, para. 25 & n.74.

³⁸ See, e.g., NASUCA Comments at 4–5 (arguing that forbearance is inappropriate unless i-wireless explains how it will apply the Lifeline discount to its plans); NENA Comments at 1–2 (arguing that carriers seeking forbearance should commit to complying with state-level 911 and E911 obligations as a condition of forbearance).

³⁹ Of course, if a state commission does not have jurisdiction to designate i-wireless as a limited-purpose ETC, we will consider i-wireless's application as well as whether any additional obligations are necessary for that particular designation to be in the public interest. See 47 U.S.C. § 214(e)(6).

additional obligations to redirect their arguments to ETC designation proceedings rather than this proceeding.

19. Similarly, we are not persuaded by comments regarding the impact on the size of the universal service fund and the associated contribution obligation if we grant the forbearance petition.⁴⁰ Granting forbearance here would allow i-wireless to compete with TracFone and Virgin Mobile (as well as other ETCs) for the existing pool of low-income customers, and the size of that pool is determined by Lifeline program eligibility requirements, not by the number of providers competing for those customers. The additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest. A new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance in the context of the Lifeline program outweighs the potential costs.⁴¹

20. In conclusion, we find that conditionally granting i-wireless forbearance for purposes of seeking ETC designation to participate in the Lifeline program only will further the statutory goal of providing low-income subscribers access to telecommunications and emergency services, while protecting the universal service fund against waste, fraud, and abuse.⁴² To the extent, however, that our predictive judgment proves incorrect and these conditions prove to be inadequate safeguards, parties may file appropriate petitions with the Commission and we have the option of reconsidering this forbearance ruling.⁴³

B. Forbearance for Link Up

21. We decline to grant the request of i-wireless for forbearance from the facilities requirement for the purpose of seeking ETC designation to receive Link Up support.⁴⁴ Petitioners seeking forbearance bear the burden of proof and must show that each of the statutory elements of forbearance is met.⁴⁵ i-wireless has not done so in the context of the Link Up program. Specifically, i-wireless does not

⁴⁰ See Pennsylvania Commission Reply at 5–6.

⁴¹ For example, Virgin Mobile (the second wireless reseller to receive forbearance) has recently increased the number of minutes it offers to low-income consumers through its Lifeline product to attract more customers. Compare, e.g., Pennsylvania Commission Reply, CC Docket No. 96-45, at 6 n.16 (filed July 20, 2009) (noting that Virgin Mobile planned to offer 120 free prepaid minutes to Lifeline customers), with Virgin Mobile Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Alabama, WC Docket No. 09-197, at 8 (filed Jan. 15, 2010) (noting that Virgin Mobile plans to offer 200 free prepaid minutes to its Lifeline customers).

⁴² i-wireless has committed to complying with all the obligations imposed on TracFone and Virgin Mobile as conditions of forbearance. See Forbearance Petition at 13.

⁴³ See *Petition for Forbearance of the Verizon Telephone Companies Pursuant to 47 U.S.C. § 160(c)*, WC Docket No. 01-338, Memorandum Opinion and Order, 19 FCC Rcd 21496, 21508–09, para. 26 & n.85 (2004); see also *Petition of SBC Communications Inc. for Forbearance from Structural Separations Requirements of Section 272 of the Communications Act of 1934, As Amended, and Request for Relief to Provide International Directory Assistance Services*, CC Docket No. 97-172, Memorandum Opinion and Order, 19 FCC Rcd 5211, 5223–24, para. 19 & n.66 (2004); *Cellnet Communications, Inc. v. FCC*, 149 F.3d 429, 442 (6th Cir. 1998).

⁴⁴ See Forbearance Petition at 8–14.

⁴⁵ See, e.g., *Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance under Section 10 of the Communications Act of 1934, As Amended*, WC Docket No. 07-267, Report and Order, 24 FCC Rcd 9543, 9554–55, para. 20 (2009) (“We now state explicitly that the burden of proof is on forbearance petitioners at the outset and throughout the proceeding.”); *Petitions of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Denver, Minneapolis-St. Paul, Phoenix, and Seattle Metropolitan Statistical Areas*, WC Docket No. 07-97, Memorandum Opinion and Order, 23 FCC Rcd 11729, 11750, 11754–58, paras. 28, 36, 39 (2008) (noting that Qwest had failed to meet its burden of persuasion regarding sufficiency of market share).

address in its petition the differences between the Lifeline and Link Up programs, nor does the company explain how the obligations conditional to Lifeline participation would apply in the context of Link Up. Moreover, i-wireless does not explain how the public interest would be served by forbearing from the facilities requirement in this context.⁴⁶ General references to the statutory goal of ensuring that low-income consumers have access to telecommunications services do not suffice to replace a particularized argument regarding the facts and policy surrounding the facilities requirement and the Link Up program.⁴⁷ We thus conclude that i-wireless has failed to meet its burden to show that forbearing from the facilities requirement in the context of the Link Up program is in the public interest.⁴⁸

IV. ORDERING CLAUSES

22. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214, 254, the petition for forbearance filed by i-wireless Telecom, LLC IS GRANTED IN PART to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order and otherwise DENIED.

23. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214, 254, we forbear from applying sections 54.201(d)(1) and 54.201(i) of the Commission's rules, 47 C.F.R. § 54.201(d)(1), (i), to i-wireless Telecom, LLC to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

24. IT IS FURTHER ORDERED that, pursuant to section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), this order SHALL BE effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴⁶ See Forbearance Petition at 8–14 (discussing Link Up only in the context of its discussion of Lifeline).

⁴⁷ See *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, Third Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 19853, 19879–80, para. 55 (1998) (“MariTEL’s request cannot be granted because it is too vague, both as to the specific provisions from which we should forbear from enforcing, and as to why forbearance would be in the public interest.”).

⁴⁸ Because we find that i-wireless has not met its burden of proof on the third statutory element, we do not examine whether it did so on the first or second elements.

EXHIBIT 2

Proposed Lifeline Offering (Non-Tribal)

Option 1: 150 Anytime Minutes Plan*

150 anytime minutes per month

(additional usage priced at 10 cent minutes and 10 cent text messages)

Net cost to Lifeline customer: **\$0 (free)**

**includes:*

- Free handset
- Free Voicemail, Caller-ID, and call waiting
- Free incoming text messages
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free balance inquiries
- Unused minutes roll over
- Customer can earn additional free minutes through Kroger Free Minute Loyalty Program

Option 2: 250 Anytime Minutes Plan*

250 anytime minutes per month

(additional usage priced at 10 cent minutes and 10 cent text messages)

Net cost to Lifeline customer: **\$0 (free)**

**includes:*

- Free handset
- Free Voicemail, Caller-ID, and call waiting
- Free calls to 911 emergency services
- Free balance inquiries

***additional charges apply for:*

- incoming text messages (charge per text: 10 cents; one text message decrements one minute of use)
- calls to Customer Service (minutes decrement from customers 250 minutes)

****additional restrictions:*

- Minutes cannot be rolled over
- Customer not eligible to earn additional minutes through the Kroger Free Minute Loyalty Program

Proposed Lifeline Offering (Non-Tribal) - Continued

Option 3: Lifeline \$15 Retail Discount Plan*

Lifeline eligible customers may choose any i-wireless monthly retail plan (excluding text only plans) at a \$15 discount. The following retail monthly plans are currently available:

Talk Plans (monthly)

- 200 anytime minutes, unlimited text messages, and 200 megabytes of data (web browsing and e-mail on capable phones) (additional usage priced at 10 cent minutes)
Net cost to Lifeline customer: **\$10** (plus applicable taxes and fees)
- 1,000 minutes, unlimited text messages and 500 megabytes of data (web browsing and e-mail on capable phones) (additional usage priced at 10 cent minutes)
Net cost to Lifeline customer: **\$25** (plus applicable taxes and fees)
- Unlimited talk (10 cent text messages, data plans sold separately)
Net cost to Lifeline customer: **\$25** (plus applicable taxes and fees)
- Unlimited talk, unlimited text messages and 2.5 gigabytes of data (web browsing and e-mail on capable phones)
Net cost to Lifeline customer: **\$45** (plus applicable taxes and fees)

**includes:*

- Free handset
- Free Voicemail, Caller-ID and call waiting
- Free incoming text messages
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free balance inquiries
- Unused minutes roll over
- Customer can earn additional free minutes through Kroger Free Minute Loyalty Program

Proposed Lifeline Offering (Tribal)

Option 1: Lifeline Unlimited Talk*

Unlimited monthly voice usage

(outgoing text messages priced at 10 cents per message, data usage priced at \$1.00 per megabyte and billed in 500 kilobyte increments)

Net cost to Tribal Lifeline customer: **\$0**

Option 2: \$39 Retail Discount Plan*

Lifeline eligible tribal customers may choose any i-wireless monthly retail plan (excluding text only plans) at a \$40 discount. The following retail monthly plans are currently available:

Talk Plans (monthly)

- 1,000 minutes, unlimited text messages and 500 megabytes of data (web browsing and e-mail on capable phones) (additional usage priced at 10 cent minutes)
Net cost to Tribal Lifeline customer: **\$0** (plus applicable taxes and fees)
- Unlimited talk, unlimited text messages and 2.5 gigabytes of data (web browsing and e-mail on capable phones)
Net cost to Tribal Lifeline customer: **\$20** (plus applicable taxes and fees)

**Both Options includes:*

- Free handset
- Free Voicemail, Caller-ID, and call waiting
- Free incoming text messages
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free balance inquiries
- Unused minutes roll over
- Customer can earn additional free minutes through Kroger Free Minute Loyalty Program

EXHIBIT 3

Proposed ETC Area

Exchanges of CENTURYTEL OF OREGON INC dba CENTURYLINK:

AURORA
BOARDMAN
CHARBONNEAU
DEPOE BAY
GLENEDEN BEACH
GOVERNMENT CAMP
SCAPPOOSE
SHEDD

Exchanges of FRONTIER COMMUNICATIONS NORTHWEST INC:

AMITY
AUMSVILLE/TURNER
BANDON
BEAVERTON
BROOKINGS
CLATSKANIE
COOS BAY/NORTH BEND
COQUILLE
COVE
DAYTON
FOREST GROVE
GRESHAM
HILLSBORO
LA GRANDE
LAKESIDE
LANGLOIS
LOSTINE
MCMINNVILLE
NEWBERG
PORT ORFORD
REEDSPORT
SANDY
SCHOLLS
SHERWOOD
STAFFORD
SUNNYSIDE
TIGARD
YAMHILL

Exchanges of QWEST CORPORATION dba CENTURYLINK:

ALBANY
ASHLAND
ASTORIA
ATHENA/WESTON
BEND
BURLINGTON
CANNON BEACH
CENTRAL POINT
CORVALLIS
COTTAGE GROVE
CULVER
DALLAS
EUGENE/SPRINGFIELD
FALLS CITY
FLORENCE
GOLD HILL
GRANTS PASS
HARRISBURG
HERMISTON
INDEPENDENCE/MONMOUTH
JACKSONVILLE
JEFFERSON
JUNCTION CITY
KLAMATH FALLS
LA PINE
LAKE OSWEGO
MADRAS
MEDFORD
MILTON FREEWATER
NEWPORT
NORTH PLAINS
NYSSA
OAK GROVE/MILWAUKIE
OAKLAND/SUTHERLIN
ONTARIO
OREGON CITY
OREGON SLOPE
PENDLETON
PHOENIX/TALENT
PORTLAND
PRINEVILLE
RAINIER

REDMOND
ROGUE RIVER
ROSEBURG
SAINT HELENS
SALEM
SEASIDE
SISTERS
STANFIELD
TOLEDO
UMATILLA
VALE
VENETA
WALLA WALLA
WARRENTON
WOODBURN/HUBBARD

Exchanges of UNITED TELEPHONE COMPANY OF THE NORTHWEST dba
CENTURYLINK:

ARLINGTON
CARLTON
CASCADE LOCKS
HOOD RIVER
MORO
MOSIER
RUFUS
THE DALLES
WASCO

Map Showing Proposed ETC Designation Area in Blue

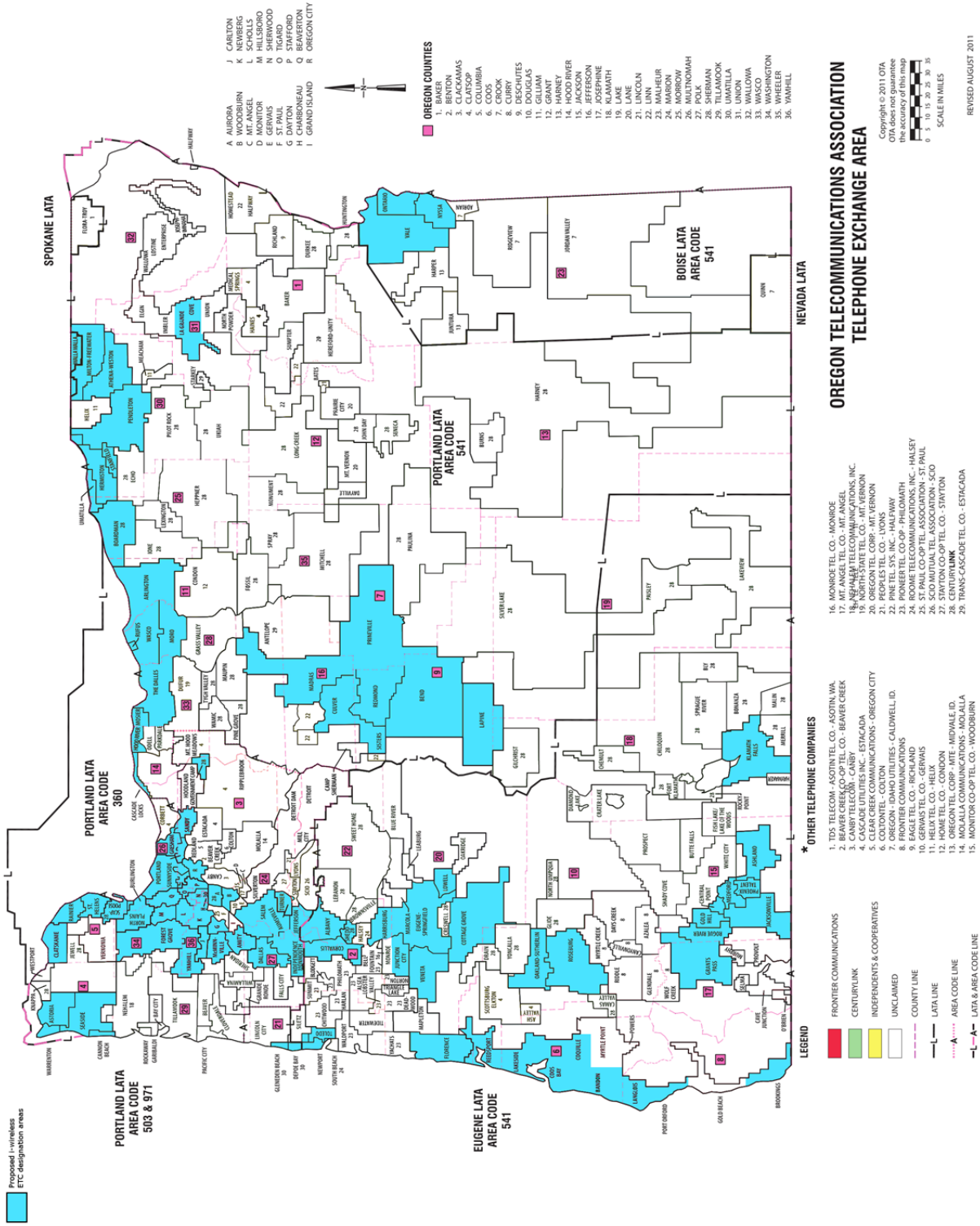


EXHIBIT 4

i-wireless, LLC's FCC-Approved Compliance Plan

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of the)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A))	

I-WIRELESS, LLC’S REVISED COMPLIANCE PLAN

i-wireless, LLC (“i-wireless” or the “Company”), by its attorney, hereby files its revised plan outlining the measures it will take to implement the conditions imposed by the Federal Communications Commission (“Commission”) in its recent Order, released June 25, 2010, in the above-captioned matter.¹ Given the severe economic environment that is forcing many lower-income customers to forego wireless service, i-wireless respectfully requests expeditious approval of this plan so that the Company, upon designation as an Eligible Telecommunications Carrier (“ETC”), may quickly deploy much-needed Lifeline services to many low-income customers. i-wireless will provide Lifeline services under the brand name “Access Wireless.”

BACKGROUND

The Commission’s *Order* conditionally granted i-wireless’ request for forbearance from the Section 214(e)(1)(A) requirement that a carrier designated as an ETC for purposes of federal universal service support provide services, at least in part, over its own facilities, stating “i-wireless may seek ETC designation to offer discounted services to qualified low-income consumers through

¹ See *Federal-State Joint Board on Universal Service; In the Matter of i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, FCC 10-117, released June 25, 2010 (“*Order*”).

the universal service Lifeline program².”

The Commission found that a conditional grant of forbearance for i-wireless from the facilities requirement of section 214(e) for the purpose of seeking ETC designation to provide Lifeline support only “will further the statutory goal of providing low-income subscribers access to telecommunications and emergency services, while protecting the universal service fund against waste, fraud and abuse³.” The Commission’s grant of forbearance is subject to the following conditions: (a) i-wireless providing its Lifeline customers with 911 and Enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; and (d) i-wireless obtaining a certification from each PSAP where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from i-wireless at the same address; and (g) i-wireless dealing directly with the customer to certify and verify the customer’s Lifeline eligibility.⁴ The Commission required i-wireless to submit a plan describing the measures it would take to implement each one of these conditions within thirty days of the release of the Order.⁵ i-wireless is not seeking support for Link-up, as the Commission denied that portion of i-

² *Order* at ¶ 1.

³ *Order* at ¶ 20.

⁴ *See Order* at ¶¶ 11, 16.

⁵ *See id.*

wireless' request for forbearance.⁶

COMPLIANCE PLAN

i-wireless commends the Commission's commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including Lifeline customers.⁷ i-wireless will comply with all conditions set forth in the *Order*, the provision of this Compliance Plan, all laws and regulations governing its provision of Lifeline-supported prepaid wireless service to customers throughout the United States and in addition take the steps set forth herein.

I. Access to 911 and E911 Services

In the *Order*, the Commission required i-wireless to provide its Lifeline customers with access to 911 and E911 services immediately upon activation of service, and stated that, in order to demonstrate compliance with the condition, i-wireless must obtain certification from each PSAP where it provides Lifeline service confirming that its customers receive 911 and E911 services. If within 90 days of i-wireless' request, a PSAP has neither provided the certification nor made an affirmative finding that the Company does not provide its customers with 911 and E911 services within the applicable service area, the *Order* allowed i-wireless to self-certify that it meets the requirements.⁸ The Commission and consumers are hereby assured that all i-wireless customers will have available access to emergency calling services at the time that Lifeline service is initiated, and that such 911 and E911 access will be available from i-wireless handsets, even if the account associated with the handset has no minutes remaining.

i-wireless can ensure the Commission that all Lifeline customers will have meaningful access to emergency calling services at the time the customer activates Lifeline service, and that such access will continue regardless of the customer's account status or the availability of prepaid

⁶ See *Order* at ¶ 1.

⁷ See *Order* at ¶ 12.

⁸ See *Order* at ¶ 13.

minutes. The Company's existing practices currently provide access to 911 and E911 services to the extent that these services have been deployed by its underlying carrier, Sprint Nextel ("Sprint"). i-wireless also currently enables 911 emergency calling services for all properly activated handsets regardless of whether the account associated with the handset is active, suspended or terminated. Finally, the Company transmits all 911 calls initiated from any of its handsets even if the account associated with the handset has no remaining minutes.

To satisfy the conditions of the *Order* regarding 911 and E911 services, i-wireless will implement the following measure prior to deploying Lifeline services in a given area. Initially, the Company will confirm that its underlying carrier has deployed E911 services in a specific PSAP territory. i-wireless will obtain the requisite certification from each PSAP where it provides Lifeline service confirming that its customers receive 911 and E911 services.⁹ If within 90 days of receiving the Company's request, a PSAP has neither provided such certification nor made an affirmative finding that the Company does not provide its customers with 911 and E911 services within the applicable service area, i-wireless will self-certify that it meets the basic and E911 requirements.

II. E911-Compliant Handsets

The Commission also conditioned its grant of forbearance determination on i-wireless providing only E911-compliant handsets to its Lifeline customers.¹⁰ i-wireless will ensure that all handsets used in connection with the Lifeline service offering will be E911-compliant. In fact, i-wireless' phones have always been and will continue to be 911 and E911-compliant. i-wireless uses phones from Sprint that have been through a stringent certification process in Sprint's handset certification lab, which ensures that the handset models used meet all 911 and E911 requirements. In i-wireless' five year history, only one handset model has failed the E911 process during the

⁹ A form of this PSAP certification request is attached hereto as Exhibit A.

¹⁰ See *Order* at ¶ 11.

handset lab certification, and that is a model the Company did not launch. As a result, any existing customer that qualifies for and elects Lifeline service will already have a 911/E911-compliant handset, which will be confirmed at the time of enrollment in the Lifeline program. Furthermore, in the event that an existing customer does not have an E911-compliant handset, the Company will replace it with a new 911/E911-compliant handset at no charge to the customer. Any new customer that qualifies for and enrolls in the Lifeline program is assured of receiving a 911/E911-compliant handset as well, free of charge.

III. Certification of Lifeline Customers' Eligibility

To safeguard against misuse of the Lifeline service plan, the *Order* required i-wireless to deal directly with the customer and require each customer to self-certify under penalty of perjury at time of service activation and annually thereafter that they are the head of household and receive Lifeline-supported service only from i-wireless.¹¹ The Commission also required i-wireless to establish safeguards to prohibit more than one supported i-wireless service at each residential address.¹² Unless and until the Commission's issuance of new rules in its Lifeline rulemaking proceeding that set forth different requirements, i-wireless proposes the following plan to implement these certification and verification conditions (the plan would be modified to conform to any new rules and orders, once issued and effective):

A. Policy

i-wireless will comply with all certification and verification requirements for Lifeline eligibility established by states where it is designated as an ETC. In states where there are no state-imposed requirements, i-wireless will comply with the certification and verification procedures in effect in that state as reflected on the website of the Universal Service Administration Company.

¹¹ See *Order* at 16.

¹² See *id.*

For any states which do not mandate Lifeline support and/or which do not have established rules of procedure in place, i-wireless will certify at the outset and will verify annually consumers' Lifeline eligibility in accordance with the Commission's requirements.

B. Certification Procedures

i-wireless will implement certification procedures that enable consumers to demonstrate their eligibility for Lifeline assistance by contacting i-wireless in person or via telephone, facsimile, or the internet. At the point of sale, consumers will be provided with printed information describing i-wireless' Lifeline program, including eligibility requirements, and with instructions for enrolling. Consumers will be signed up in person or directed, via company literature, collateral or advertising, to a toll-free telephone number and to i-wireless' website, which will contain a link to information regarding the Company's Lifeline service plan, including a detailed description of the program and state-specific eligibility criteria. i-wireless' application form for its Access Wireless service will identify that it is a "Lifeline" application. i-wireless understands and accepts the Commission's requirement that the Company have direct contact with all customers applying for participation in the Lifeline program.¹³ i-wireless will have direct contact with all customers applying for Lifeline service, either in person through its employees or agents or via the telephone (including facsimile) or mail. i-wireless will provide Lifeline-specific training to all personnel, whether employees or agents, that interact with actual or prospective consumers with respect to obtaining, changing or terminating its Lifeline services.

Consumers who do not complete the application process in person must return the signed application and support documentation to the Company by mail, fax, email or other electronic transmission. The Company will accept electronic signatures that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 USC 7001-7006, and any

¹³ See *Order* at ¶ 16.

applicable state laws. Processing of consumers' applications, including review of all application forms and relevant documentation, will be performed under i-wireless' supervision by managers experienced in the administration of the Lifeline program.

i-wireless will ensure that all required documentation is taken care of properly by using state-specific compliance checklists. For states with program-based eligibility criteria, the form will list each of the qualifying programs, and the applicant will be required to identify the program(s) in which they participate, and to furnish proof that they currently participate in such program(s), regardless of whether such proof is required pursuant to state law. For states with income-based eligibility criteria, the applicant will be required to certify under penalty of perjury that their household income does not exceed the relevant threshold (*e.g.*, 135% of the Federal Poverty Guidelines for federal default states) and will be required to provide proof of income-based eligibility. Notwithstanding the foregoing with respect to program or income eligibility, for states that require i-wireless to enroll subscribers identified by the state or as eligible in a state database, i-wireless may continue to rely on the state identification or database. In addition, the Lifeline application form will include a certification section where the applicant must attest and sign under penalty of perjury that the applicant's representations are true and correct. Applicants will also be required to certify under penalty of perjury that they are head of their household and receive Lifeline-supported service only from i-wireless. Penalties for perjury will be clearly-stated on the certification form, as required by the *Order*.¹⁴ i-wireless will use substantially the following form of its certification, printed in at least 10 point font:¹⁵

¹⁴ See *Order* at ¶ 17.

¹⁵ Among other things, i-wireless may, at its option, periodically update or change the list of Lifeline services identified in certification item no. 3 to reflect its judgment as to the most common prepaid wireless Lifeline products offered in its service areas, taken together, under names that are not readily identifiable as Lifeline services.

By signing below, I certify under penalty of perjury – (additionally, please initial each of the 5 statements below)

1. The information contained within this application is true and correct. I acknowledge that providing false or fraudulent documentation in order to receive assistance is punishable by law. _____
2. I understand that Lifeline is only available for one phone line per household, whether landline or wireless. I am the head of household and will only receive Lifeline from Access Wireless. _____
3. I am not currently receiving a Lifeline telephone service from any other landline or wireless telephone company. (Some Lifeline services are not marketed under a “Lifeline” name; these include Lifeline services sold under the names Life Wireless, TAG Mobile, Reachout Wireless, Assurance Wireless and Safelink.) _____
4. Furthermore, I certify that I will only use this phone for my family’s own use and will not resell it. _____
5. I will notify Access Wireless immediately if I no longer qualify for Lifeline, or if I have a question as to whether I would still qualify. _____

Perjury and false statements are punishable by fines and/or imprisonment.

Signature (required) _____ Date _____

Finally, the application forms will require each applicant to provide their name and primary residential address. i-wireless will incorporate this information into its customer information database. Prior to initiating service for a customer, the Company will check the address of each Lifeline applicant against its database to determine whether or not it is associated with a customer that already receives i-wireless Lifeline service, and will then review the application to ascertain whether the applicant is attempting to receive Lifeline-supported service for more than one handset associated with the address. i-wireless will deny the Lifeline application of any such individual and advise the applicant of the basis for the denial. In addition, prior to requesting a subsidy, i-wireless will process and validate i-wireless’ subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (“Double Dip,” *i.e.*, any household that is already receiving a Lifeline subsidy from i-

wireless will be automatically prevented from receiving a second lifeline subsidy in that same month); and (2) Inactive lines receiving subsidy (*i.e.*, systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines).¹⁶ i-wireless shares the Commission's concern about abuse of the Lifeline program and is thus committed to the safeguards stated herein, with the belief that the procedures it will implement will prevent i-wireless customers from engaging in such abuse of the program, inadvertently or intentionally.

C. Annual Verification Procedures

As required by the Commission's *Order*, i-wireless will require every consumer enrolled in the Lifeline program to verify on an annual basis that they are the head of their household and only receive Lifeline service from i-wireless.¹⁷ i-wireless will notify each participating Lifeline consumer prior to their service anniversary date that they must confirm their continued eligibility in accordance with the applicable requirements. This notification will be mailed via the U.S. Postal Service to the address the subscriber has on record with i-wireless. The notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact i-wireless. Customers will have 60 days to complete the form, certify under penalty of perjury that they are the head of household and receive Lifeline service only from i-wireless, and return the form to i-wireless by mail. Anyone who does not respond to the mailing and certify their continued eligibility will be removed from the Lifeline program.

Currently, customers will be required to complete the verification process by mail; however, i-wireless may offer additional options, such as web-based methods, in the future. Such verification will be required in order for the consumer to continue to receive free Lifeline service or

¹⁶ See Usage Policy, below.

¹⁷ See *Order* at ¶ 16.

to purchase prepaid airtime from i-wireless at the discounted rate only available to those customers who are enrolled in its Lifeline program.

IV. Additional Measures to Prevent Waste, Fraud, and Abuse

A. Non-usage Policy

i-wireless will implement a non-usage policy whereby we will identify Lifeline customers that have not used the Company's Lifeline service for 60 days, and cease to claim Lifeline reimbursements for such customers if they do not use their service within a 30-day grace period following the initial 60-day non-usage period.¹⁸ Specifically, if no usage appears on an i-wireless Lifeline customer's account during any continuous 60-day period, i-wireless will promptly notify the customer that the customer is no longer eligible for i-wireless Lifeline service subject to a 30-day grace period. During the 30-day grace period, the customer's account will remain active, but i-wireless will engage in outreach efforts to determine whether the customer desires to remain on the Company's Lifeline service. If the customer's account does not show any customer-specific activity during the grace period (such as making or receiving a voice call, sending a text message, downloading data or adding money to the account), i-wireless will deactivate Lifeline services for that customer. In addition, i-wireless will not seek to recover a federal Universal Service Fund subsidy for the minutes provided to the customer during the grace period or thereafter report that customer on its USAC Form 497 unless the customer re-initiates service.

¹⁸ i-wireless will consult with the state commissions (PUCs) in the states where it provides Lifeline services regarding implementation of the policy described above. i-wireless expects that certain state PUCs or similar agencies may seek to incorporate state-specific variations to the policy. Consequently, i-wireless may modify the parameters of the inactivity policy described herein after consultation with the respective state PUCs.

B. Customer Education with Respect to Duplicates

To supplement its verification and certification procedures, and to better ensure that customers understand the Lifeline service restrictions with respect to duplicates, i-wireless will implement measures and procedures to prevent duplicate Lifeline benefits being awarded to the same household. These measures entail additional emphasis in written disclosures as well as live due diligence.

- a) Call Center Scripts – i-wireless will emphasize the “one Lifeline phone per household” restriction through its interaction with the potential customer at the call center. The call center introduction script substantially in the form that i-wireless would use is attached as Exhibit B.
- b) Sales Scripts – i-wireless will also emphasize the “one Lifeline phone per household” restriction through its direct sales contact with the potential customer. The sales training materials will include a discussion of the limitation to one Lifeline phone per household, and the need to ensure that the customer is informed of this restriction. Attached as Exhibit C is a sample of training material that would meet the requirements of this provision.
- c) Marketing, Advertising and Website Content – i-wireless, in its marketing materials, will reinforce the limitation of one Lifeline phone per household. The following statement will appear in conspicuous place in bold font in an offsetting color, minimum 10 point font, to ensure it is not overlooked.

Note: By law, the Lifeline program is only available for one phone per household

This statement will also appear on the company’s website (www.accesswireless.com) during the customer information/education cycle. At the point on its website when a customer inputs his/her zip code to verify that Access Wireless/i-wireless offers service in their area, i-wireless would display the above message in the section where the website explains the service and rate plan options. The message would flash to draw attention to it. In addition, i-wireless will include in its printed materials and website substantially the following statement “Not all Lifeline supported programs are identified as ‘Lifeline’ and may be marketed under other brand names.”

D. Cooperation with state and federal regulators

i-wireless has and will continue to cooperate with federal and state regulators to prevent waste, fraud and abuse, including:

- Providing state commissions (PUC), the FCC or USAC upon request with data

that will enable that state, the FCC or USAC to determine whether some consumers are enrolled in more than one Lifeline program. Specifically, i-wireless agrees to make available state-specific customer data, including name and address, upon request to each state PUC where it operates, the FCC or USAC for the purpose of permitting the PUC, FCC or USAC to determine whether an existing Lifeline customer receives Lifeline service from another carrier, 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 it receives from a state PUC, the FCC or USAC that one of its customers already receives Lifeline service from another carrier;
- Immediately deactivate a customer's Lifeline service and no longer report that customer on USAC Form 497 if i-wireless' investigation, a state, the FCC or USAC concludes that the customer receives Lifeline services from another carrier in violation of the Commission's regulations and that i-wireless' Lifeline service should be discontinued such as a de-enrollment notification pursuant to the FCC's June 17, 2011 Report and Order (Section III, B.).

V. Included Usage

i-wireless will offer at least one Lifeline plan that provides consumers with at least 250 included minutes-of-use per month at the lowest end user rate permitted under FCC rules. This provision will expire 36 months from the date of approval of this Compliance Plan.

CONCLUSION

i-wireless submits that its Compliance Plan fully satisfies the conditions set forth in the Commission's *Order* granting forbearance to the Company. Implementation of the procedures described herein will promote public safety and should ensure that Lifeline customers have access to 911 and E911 services while safeguarding against misuse of the Company's Lifeline services. Accordingly, i-wireless respectfully requests that the Commission expeditiously approve its Compliance Plan so that i-wireless may begin providing the benefits of much-needed Lifeline service to qualifying low-income consumers as quickly as possible.

Respectfully submitted,

I-WIRELESS, LLC

/s/

Lance J.M. Steinhart
Lance J.M. Steinhart, P.C.
1725 Windward Concourse
Suite 150
Alpharetta, Georgia 30005
(770) 232-9200

Its Counsel

Dated September 9, 2011

Exhibit A

PSAP Certification Request



[Date]

Public Safety Answering Point Coordinator
Name
Address Line 1
Address Line 2
[City], [state] [zip]

PSAP Certification for i-wireless Lifeline Program

Dear PSAP Coordinator,

This letter is being sent to inform you that i-wireless, LLC (“i-wireless”) plans to offer Lifeline service in your state in the near future, and we are seeking your assistance with PSAP certification.

Lifeline provides affordable phone service for more than 7 million low-income Americans. Eligible consumers receive approximately a \$15 discount off of their monthly telephone service charges. Presently, only about one-third of the Lifeline eligible households subscribe to the program. i-wireless is pleased to be one of the companies to offer Lifeline in your state.

Before we can offer this service in [state], the FCC requires that i-wireless receive the following:

1. Forbearance from the facilities based services requirement of the Communications Act of 1934
2. Eligible Telecommunications Carrier (“ETC”) status for your state
3. Certification from Public Safety Answering Points (“PSAPs”) in areas where i-wireless will offer Lifeline, confirming that 911/E911 access will be available to Lifeline customers regardless of activation status and availability of prepaid minutes

On June 22, 2010 the Federal Communications Commission (FCC) granted i-wireless forbearance from the facilities-based services requirement (see enclosed Forbearance Order), and i-wireless is currently awaiting ETC status for the state of [state].



Although i-wireless is still awaiting ETC status for your state, we are moving forward with the PSAP certification process in order to be prepared to launch Lifeline in your area soon after ETC status is received. i-wireless is requesting your certification based on the information you receive in this letter or any other information you may request of us.

Please keep in mind that i-wireless provides prepaid wireless telecommunications services to customers using the Sprint PCS network. Sprint Nextel is a nationwide facilities-based carrier that provides wholesale capacity to resellers such as i-wireless. All i-wireless 911/E911 calls are routed by Sprint to the appropriate PSAP, the same way that Sprint routes its own 911/E911 calls.

Sprint has deployed the FCC required Phase II caller location functionality on their CDMA network in your area, which enables Sprint and i-wireless to provide E911 access. In addition, all i-wireless customers will be provided with E911 compliant handsets.

Please review and sign the enclosed PSAP certification form and return it in the postage-paid envelope provided. i-wireless will keep this form on file in case the state or federal commissions request a review of this documentation. **If i-wireless does not receive your signed form (or documentation stating that i-wireless does not provide 911/E911 functionality in your area) within the next 90 days, i-wireless is permitted to and will self-certify 911/E911 compliance for your area.**

If you have any questions relating to the certification process or you would like to request a test handset, please contact [i-wireless contact] at i-wireless via email (email address), regular mail or fax (fax number). Please include your PSAP jurisdiction along with your name on the attached form. Please call me (phone number) should you have any questions or requests.

Thank you for your assistance in enabling i-wireless to offer Lifeline to low-income households in your area.

Sincerely,

[i-wireless contact]
i-wireless, LLC



**To: [i-wireless contact]
i-wireless Lifeline Program
PSAP Certification Form**

State of [state]

PSAP Name/Jurisdiction:

PSAP Coordinator:

Business Address:

.....

.....

I am the PSAP Coordinator for the above listed Public Safety Answering Point ("PSAP") and I am responsible for 911/E911 service in accordance to the rules and regulations of the Federal Communication Commission (FCC).

i-wireless has informed me that on June 22, 2010 the Federal Communications Commission (FCC) granted them forbearance from the facilities-based services requirement of the Communications Act of 1934, and they are currently awaiting ETC status for the state of [state]. We understand that the i-wireless designation as an ETC is subject to conditions including certification from PSAPs where they will offer Lifeline service, confirming that Lifeline customers will have 911/E911 access regardless of activation status and availability of prepaid minutes.

i-wireless has also confirmed that they provide prepaid wireless telecommunications services to customers using the Sprint PCS network and that Sprint Nextel is a nationwide facilities-based carrier that provides wholesale capacity to resellers such as i-wireless. It is understood that i-wireless 911/E911 calls are routed by Sprint to the appropriate PSAP, the same way that Sprint routes its own 911/E911 calls.

Finally, i-wireless communicated that Sprint has deployed the FCC required Phase II caller location functionality on their CDMA network in my area, which enables Sprint and i-wireless to provide E911 access, and that all i-wireless customers will be provided with E911 compliant handsets.

Based on all of the information provided by i-wireless and belief, as PSAP Coordinator, I hereby certify that i-wireless has provided sufficient proof that they will comply with the FCC requirement to provide Lifeline customers with 911/ E911 service regardless of activation status and availability of prepaid minutes.

.....
Date

.....
Signature of PSAP Coordinator

Exhibit B

Call Center Script

Access Wireless (i-wireless Lifeline) Call Center Script
Call Initiation – Part 1
Created February 4, 2011
Updated May 26, 2011 for discussions with the FCC

Greeting: “Thank you for calling Access Wireless. This is (Agent Name). May I please have your last name and the state you are calling from?”

**** Agent – Perform customer search while asking customer ****

- “Are you calling for a new application or to check status?”
- **If status of application:** “May I please have your address?”
- **If new application:** Validate that they are the head of household and that they are not currently receiving a Lifeline subsidized phone with the following line of questioning:
 - a) “Do you currently have wireless or home phone service?” (if no, skip (b) – (e))
 - b) **If yes:** “Is that [wireless or home phone] service a subsidized service or do you pay full price?”
 - c) **If subsidized:** “By law, the Lifeline program is only available for one phone per household. Do you know if your current phone is subsidized under the Lifeline program?”
 - d) **If they are unsure:** “Who is your provider for that service?” (Safelink, Assurance, TSI / Nexus Communications, Smith Bagley or DPI only offer Lifeline so go to (e) – if a more ambiguous provider, e.g., Verizon, Pacific Bell or Illinois Bell, try to question further to determine if they have Lifeline).
 - e) **If it is Lifeline:** “We cannot provide you with a second Lifeline phone. If there is a problem with that service or you want to be on our service, you must first disconnect your service with your other provider and then call back to establish service with us.”

***If it is evident that they don’t already have Lifeline service then click on add new customer and fill out appropriate information.**

Exhibit C

Sample Sales Training Material

**Access Wireless (i-wireless Lifeline)
Sales Training Materials
Updated May 26, 2011 for discussions with the FCC**

Refer to the state specific one page Sales Information sheet for state specific, program information.

If customer is interested in Lifeline service and is eligible under one of the programs or the income threshold listed in the “**Who is eligible to receive an Access Wireless phone and Free Service?**” section of the state specific information sheet, please complete the following procedures:

1. Ask the following questions:
 - a) “Do you currently have wireless or home phone service?” (if no, skip (b) – (f))
 - b) **If yes:** “Is that [wireless or home phone] service a subsidized or no-charge service, or do you pay full price?”
 - c) **If subsidized:** “By law, the Lifeline program is only available for one phone per household. Do you know if your current phone is subsidized under the Lifeline program?”
 - d) **If they are unsure:** “Who is your provider for that service?” (Safelink, Assurance, TSI / Nexus Communications, Smith Bagley or DPI only offer Lifeline so go to (e) – if a more ambiguous provider, e.g., Verizon, Pacific Bell or Illinois Bell, try to dig further to determine if they have Lifeline).
 - e) **If it is Lifeline:** “We cannot provide you with a second Lifeline phone. If there is a problem with that service or you want to be on our service, you must first disconnect your service with your other provider and then call back to establish service with us.”

If it is evident that they don’t already have Lifeline service, then proceed to 2.:

2. Click on “check customer’s address” to perform an address check to insure there isn’t already an Access Wireless phone registered to that address.
 - a) If there is an active Access Wireless phone registered at that address, then thank customer for their interest, explain the situation and say “by law, the Lifeline program is only available for one phone per household”.
 - b) If there isn’t an active Access Wireless phone registered at that address, proceed to 3.
3. Assist customer in filling out the state specific application. Use the application guide/checklist to make sure it is filled out appropriately. Review the documentation for program/income proof closely against the guidelines to make sure the documentation meets the requirements.



What is Access Wireless by i-wireless?

Access Wireless from i-wireless is a part of the Lifeline Assistance program designed to ensure that quality telecommunications services are available to low-income customers at reasonable and affordable rates. Access provides program and income-eligible customers with a free wireless phone and free monthly service. The phone offers in-demand features: voicemail, text, three-way calling, call waiting, caller ID and access to 911.

Who is eligible to receive an Access Wireless phone and Free Service?

Eligibility guidelines vary by state, but in Illinois, individuals qualify if they participate in a public assistance program such as Food Stamps (SNAP), Medicaid, Low Income Home Energy Assistance Program (LIHEAP), National Free School Lunch, Federal Housing/Section 8 Assistance, Supplemental Security Income (SSI; Not the same as Social Security Benefits) or Temporary Assistance to Needy Families (TANF).

Note: Lifeline is only available to the head-of-household. Furthermore, there is a limit of only one Lifeline phone per household. Please make sure that the customer does not already receive a Lifeline subsidy from another provider

How to Apply?

In Illinois, applicants must provide proof of program participation and complete an application (attached). Program documents submitted must be "a valid, dated copy of a document issued by a qualifying agency." It also needs to show the individual's name and address. Typically this needs to be a dated enrollment letter showing the name and address of the eligible individual. Submission of a program card typically will not be sufficient because many of the enrollment cards do not show the name, address, or date of eligibility. Many of the state issued cards (i.e. food stamp) only display an ID number similar to the debit card look.

What's included with my Access phone service?

Access offers eligible customers a free wireless phone and free service. The minutes can be used for local or domestic long distance calling. There are no bills, no long-term contracts, no activation fees, and no recurring fees or surcharges for Access Wireless customers. Upon verification, Access Wireless users may renew their service on an annual basis.

Customers may choose between 3 plan options:

- a. **150 FREE MINUTES:** These minutes will be added on the first day of the monthly service cycle, and may be used for making or receiving voice calls. All incoming text messages and calls to Customer Care are FREE. Unused minutes will be carried over to the next month.
- b. **250 FREE MINUTES:** These minutes will be added on the first day of the monthly service cycle, and may be used for making or receiving voice calls. All incoming and outbound text messages will be deducted at a rate of 1 minute per text. All calls made to Customer Care from the handset will be deducted from the monthly minute allocation. All unused minutes expire at the end of the month. If you run out of minutes within the monthly service period and you have money on your account, each minute of talk or text message will cause a deduction of \$0.10 from your account.
- c. **\$15 Credit** - Customers can apply a \$15 credit (free to the customer) to any retail plan of their choice. In this way, Access Wireless customers can opt into the 200 minute, unlimited text messaging and 200 MB of data plan for only \$10 + tax (this plan is normally \$25 less the \$15 credit).

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on Universal Service;)	CC Docket No. 96-45
)	
Telecommunications Carriers Eligible for)	WC Docket No. 09-197
Universal Service Support)	
)	
i-wireless, LLC Petition for Forbearance from 47)	
U.S.C. § 214(e)(1)(A);)	

ORDER

Adopted: October 21, 2011

Released: October 21, 2011

By the Chief, Wireline Competition Bureau:

1. In this order, we approve a Revised Compliance Plan submitted by i-wireless, LLC (i-wireless) for complying with conditions imposed in the *i-wireless Forbearance Order*.¹ In the *i-wireless Forbearance Order*, the Commission conditionally granted, for the limited purpose of Lifeline universal service support, i-wireless’s request for forbearance from section 214(e)(1)(A) of the Communications Act of 1934, as amended (the Act), which requires that an eligible telecommunications carrier (ETC) provide universal service supported services, at least in part, over its own facilities.² In order to receive federal universal service support for Lifeline as a non-facilities based provider, i-wireless must comply with the conditions set forth in the *i-wireless Forbearance Order*.³ In approving the i-wireless Revised Compliance Plan, we find that it adequately implements the conditions of forbearance established in the *i-wireless Forbearance Order*. Accordingly, i-wireless is eligible to seek designation as a non-facilities based ETC for Lifeline-only support provided it fulfills the commitments in its Revised Compliance Plan in each state where it is designated to provide Lifeline service, and otherwise is in compliance with the Act and Commission rules.

2. i-wireless is a non-facilities-based commercial mobile radio services provider (*i.e.*, a pure wireless reseller) that provides prepaid wireless telecommunications services.⁴ On April 1, 2009, i-wireless filed a petition seeking forbearance from the facilities requirement of section 214(e)(1)(A) of the Act.⁵ In the *i-wireless Forbearance Order*, the Commission found that i-wireless met the statutory

¹ i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A), CC Docket No. 96-45, WC Docket No. 09-197, Compliance Plan (filed September 9, 2011) (Revised Compliance Plan); *i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, WC Docket No. 09-197, Order, 25 FCC Rcd 8784 (2010) (*i-wireless Forbearance Order*).

² *i-wireless Forbearance Order*, 24 FCC Rcd at 3381, para. 1; *see* 47 U.S.C. § 214(e)(1)(A). The Commission interpreted the forbearance petition to include forbearance from section 54.201(d)(1), (i) of the Commission’s rules, which mirrors section 214(e)(1)(A) of the Act and requires that ETCs be facilities-based, at least in part. *See i-wireless Forbearance Order*, 25 FCC Rcd at 8786 n.12.

³ The Commission denied i-wireless’s forbearance request for the Link Up support. *i-wireless Forbearance Order*, 25 FCC Rcd at 8791-92, para. 21.

⁴ *i-wireless Forbearance Order*, 25 FCC Rcd at 8786, para. 5.

⁵ i-wireless Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A), CC Docket No. 96-45 (filed Apr. 1, 2009) (*i-wireless Forbearance Petition*).

requirements for forbearance, subject to certain conditions, and forbore from application of the facilities requirement of section 214 (e)(1)(A) for the limited purpose of allowing i-wireless to seek designation as a Lifeline-only ETC eligible for support from the universal service fund for the provision of Lifeline service to eligible subscribers.⁶ On July 27, 2010, i-wireless filed a plan outlining measures that it will undertake to implement the conditions imposed in the *i-wireless Forbearance Order*.⁷ The Bureau released a public notice concerning i-wireless's compliance plan on August 20, 2010.⁸ No parties filed comments or objections to i-wireless's compliance plan. On September 9, 2011, i-wireless submitted a Revised Compliance Plan that includes additional certification procedures and measures to prevent waste, fraud and abuse, including measures to prevent duplicate Lifeline benefits being awarded to the same household.⁹

3. In the *i-wireless Forbearance Order*, the Commission conditioned forbearance on i-wireless implementing certain protections designed to prevent waste, fraud and abuse in the program.¹⁰ i-wireless commits in its Revised Compliance Plan to implement the following measures:¹¹

- (a) providing its Lifeline subscribers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes;
- (b) providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, non-compliant handsets of existing subscribers who obtain Lifeline-supported service;
- (c) complying with conditions (a) and (b) as of the date i-wireless provides Lifeline service¹²;
- (d) obtaining a certification from each Public Safety Answering Point (PSAP) where i-wireless provides Lifeline service, confirming that i-wireless provides its subscribers with 911 and E911 access or if, within 90 days of i-wireless's request for certification, a PSAP has not provided the certification and the PSAP has not made an affirmative finding that i-wireless does not provide its subscribers with access to 911 and E911 service within the PSAP's service area, i-wireless may self-certify that it meets the basic 911 and E911 requirements;
- (e) requiring its subscribers to self-certify under penalty of perjury at time of service activation and annually thereafter that they are the head of household, that they receive Lifeline service only from i-wireless, and that no other member of the household receives Lifeline-supported service from any other Lifeline provider;

⁶ *i-wireless forbearance order*. See also *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005); *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petition for Designation as an Eligible Telecommunications Carrier in the State of New York; Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of North Carolina; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009).

⁷ i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A), CC Docket No. 96-45, WC Docket No. 09-197, Compliance Plan (filed July 27, 2010). i-wireless updated its plan to reflect ongoing reforms in the Lifeline program targeted at preventing waste, fraud and abuse of funds. See *supra* note 1.

⁸ *Comment Sought on i-wireless, LLC's Plan to Comply with the Conditions of its Limited Forbearance*, CC Docket No. 96-45, Public Notice, 25 FCC Rcd 11056 (Wireline Comp. Bur. 2010).

⁹ See i-wireless Revised Compliance Plan at 5-12.

¹⁰ *i-wireless Forbearance Order*, 25 FCC Rcd at 8790-91.

¹¹ See *i-wireless Forbearance Order*, 25 FCC Rcd at 8788, 8790; i-wireless Revised Compliance Plan.

¹² i-wireless must provide its Lifeline subscribers with both 911 and E-911 access in any service area that i-wireless is designated as a non-facilities based Lifeline ETC. *i-wireless Forbearance Order*, 25 FCC Rcd at 8788, para. 11.

- (f) establishing safeguards to prevent i-wireless's subscribers from receiving multiple i-wireless Lifeline subsidies at the same address¹³; and
- (g) dealing directly with the consumer to certify and verify the consumer's Lifeline eligibility.

4. i-wireless further agrees in its Revised Compliance Plan to cooperate fully with state and federal regulators to prevent waste, fraud and abuse of Lifeline funds.¹⁴ Specifically, i-wireless commits to:¹⁵

- (h) implementing a 60-day non-usage policy in all states where i-wireless provides Lifeline services, under which i-wireless will identify its subscribers that have not used its Lifeline service for 60 days and will not seek support for such subscribers if they do not actively use its Lifeline service during a 30-day grace period following the initial 60-day non-usage period;
- (i) explaining in prominent, plain, easily comprehensible language to all new and potential subscribers that no consumer is permitted to receive more than one Lifeline subsidy;
- (j) implementing measures and procedures to prevent duplicate Lifeline benefits being awarded to the same household, including emphasizing the one-per-household limitation in call-center and sales scripts, and in all marketing, advertising, and website content;
- (k) requiring each eligible Lifeline consumer at the time of enrollment to initial on the certification form that to the best of his or her knowledge that he or she is not receiving Lifeline-supported service from any other Lifeline provider, and listing as examples the brand names of at least the leading wireline and leading two wireless Lifeline providers in the area to ensure the consumer understands what is meant by "Lifeline-supported service";
- (l) providing state commissions, the FCC or Universal Service Administrative Company (USAC) upon request with data that will enable that state, the FCC or USAC to determine whether consumers are enrolled in more than one Lifeline program;
- (m) promptly investigating any notification that i-wireless receives from a state PUC, the FCC or USAC that one of its subscribers already receives Lifeline service from another carrier;
- (n) immediately deactivating a subscriber's Lifeline service and no longer reporting that subscriber on USAC Form 497 if an i-wireless' investigation, a state commission, the FCC or USAC concludes that the subscriber receives Lifeline services from another carrier in violation of the Commission's regulations and that i-wireless' Lifeline service to that subscriber should be discontinued;
- (o) requiring that all consumers present proof of eligibility in all states in which i-wireless provides Lifeline service, regardless of whether proof of eligibility is required in that state; and
- (p) offering at least one Lifeline plan that provides consumers with at least 250 minutes-of-use per month for at least 36 months from the date of this order.

5. i-wireless maintains that its implementing procedures, as set forth in its Revised Compliance Plan, fully satisfy the conditions established by the Commission.¹⁶ After careful review of the record, we find that i-wireless's Revised Compliance Plan adequately implements the conditions of forbearance imposed by the *i-wireless Forbearance Order*. We therefore approve the Revised Compliance Plan, and, subject to i-wireless fulfilling the commitments it makes therein, it may be eligible to apply for designation as a non-facilities based ETC for Lifeline-only support. In taking this action, we remind i-wireless that the Commission may institute an inquiry on its own motion to examine the company's records and documentation to ensure that the universal service Lifeline support it receives is

¹³ See 47 C.F.R. § 54.407(b)–(c). ETCs designated for the limited purpose of participating in the Lifeline program, in contrast, may only receive Lifeline support.

¹⁴ i-wireless Revised Compliance Plan at 11.

¹⁵ *Id.* at 5-12.

¹⁶ *Id.* at 13.

being used for the purpose for which it was intended.¹⁷ i-wireless will be required to provide such records and documentation to the Commission and the USAC upon request. If i-wireless fails to fulfill its obligations under the Act, the Commission's rules, or the *i-wireless Forbearance Order* after it begins receiving Lifeline support, the Commission may revoke i-wireless's forbearance and/or limited ETC designations, should they be granted, or assess forfeitures as permitted under the Act and the Commission's rules.¹⁸

6. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in 214(e) of the Communications Act, 47 U.S.C. § 214(e), and the authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the i-wireless, LLC Revised Compliance Plan submitted as a condition of forbearance eligible only for Lifeline support in its licensed service areas IS APPROVED as described herein.

7. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), this order SHALL BE effective upon release.

8. IT IS FURTHER ORDERED that, a copy of this order SHALL BE transmitted to the Universal Service Administrative Company.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief
Wireline Competition Bureau

¹⁷ 47 U.S.C. §§ 220, 403.

¹⁸ See 47 U.S.C. §§ 254(e), 503(b); *Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45, Declaratory Ruling, 15 FCC Rcd 15168, 15174, para. 15 (2000).

EXHIBIT 5

Sample Advertisements

access WIRELESS

EARN MORE
FREE
MINUTES



Register your loyalty card to your Access Wireless account and earn FREE airtime for every \$100 you spend in-store on qualifying purchases.

Some restrictions apply. See store for details.

WHEN YOU SHOP AT ANY OF THESE LOCATIONS:



Smith's



Baker's



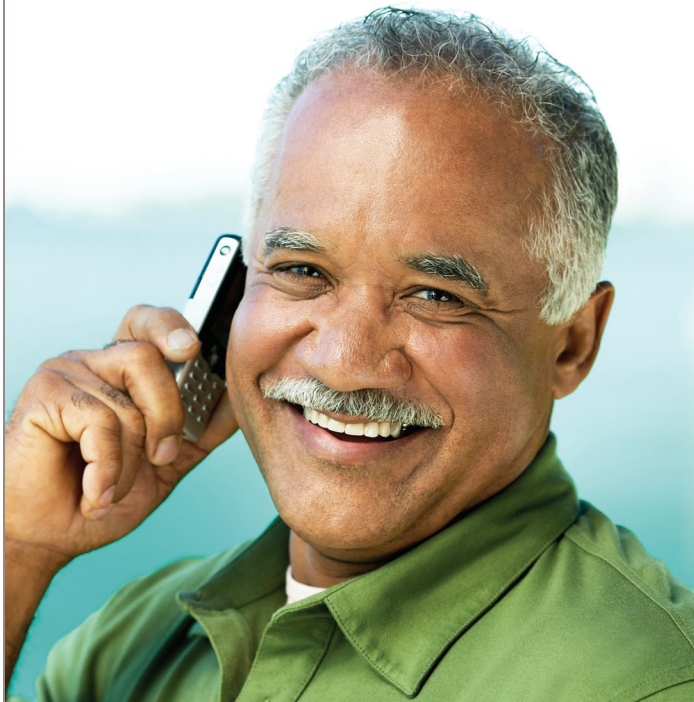
Fred Meyer

CityMarket

Access Wireless is a Lifeline Assistance program supported by the Universal Service Fund.

What is Access Wireless?

When times are tough, it's important to be accessible. Access Wireless is a government-supported program that ensures anyone can get a mobile phone. If you qualify, you'll receive a free wireless phone and a free monthly allotment of minutes so you can stay in contact with friends and family members, be reachable to potential employers and have a means of communicating in case of an emergency.



Free Access Wireless phones vary by handset manufacturer and model and are dependent on inventory availability. Pricing listed includes domestic calling only.

Access Wireless is not available in all areas. To determine if Access Wireless is available where you live, please visit www.accesswireless.com or call 1-800-464-6010.

To be eligible for the FREE MINUTES Rewards loyalty program, simply register your Shopper's/ Rewards card when you activate your phone.

Lifeline Assistance is only available on one wireless phone per household and is available in limited geographic areas. All Lifeline supported programs are identified as "Lifeline" and may be marketed under other brand names.

Access Wireless is a Lifeline Assistance program supported by the Universal Service Fund. Access Wireless users are subject to the Access Wireless Terms and Conditions of Service available at www.accesswireless.com. Access Wireless coverage is provided on the Sprint® Network.



AWBROCHURE0112

access WIRELESS

access WIRELESS

Access Wireless is a Lifeline Assistance program supported by the Universal Service Fund.

free
PHONE

&

UP TO
250
FREE
VOICE
MINUTES
EACH MONTH



You may qualify for Access Wireless if you participate in programs such as food stamps or Medicaid.

For more information, call 1-800-464-6010 or visit www.accesswireless.com.



How do I qualify for Access Wireless?

You may automatically qualify for Access Wireless service if you are enrolled in any of the following government programs:

- **Medicaid**
- **Food Stamps/SNAP**
- **Supplemental Security Income* (SSI)**
- **Temporary Assistance to Needy Families (TANF)**
- **Federal Public Housing Assistance (Section 8)**
- **Low-Income Housing Energy Assistance Program (LIHEAP)**
- **National School's Free Lunch Program**

You may also qualify for Access Wireless service based on your household income.

To determine if you qualify call Access Wireless at 1-800-464-6010 or visit www.accesswireless.com.

*Not the same as Social Security benefits.



What do I get with Access Wireless?

- FREE** Access Wireless phone & **FREE** airtime
- FREE** voicemail, call waiting, caller ID & 911 access
- FREE** domestic long distance
- FREE** nationwide coverage on the Sprint® network
- No contracts, monthly bill or activation fees**



To Apply

BY PHONE
1-800-464-6010

ON THE WEB
www.accesswireless.com

PLAN OPTION 1

- 150 minutes/texts
Automatically applied as a \$15 monthly credit to your account.



- Rollover unused minutes
- Free incoming texts
- Earn **FREE MINUTES** when you shop at participating Kroger-owned stores!

With **Plan Option 1** you can earn **FREE MINUTES** in the checkout line when you shop at participating Kroger-owned stores and use your Shopper's Card. For every \$100 you spend in-store, you'll automatically receive a **FREE MINUTES** reward!

Qualifying purchases only. Food stamp purchases may apply for loyalty rewards program. For details on the FREE MINUTES program, visit www.accesswireless.com.

NEED MORE MINUTES/TEXT?

LOAD A \$10 AIRTIME CARD/PIN	Get Unlimited Text Messaging for 10 days, PLUS 100 Voice Minutes*
LOAD A \$25 AIRTIME CARD/PIN	Get Unlimited Text Messaging for 30 days, PLUS 250 Voice Minutes*
LOAD A \$50 AIRTIME CARD/PIN	Get Unlimited Text Messaging for 30 days, PLUS 500 Voice Minutes*

Additional Voice Minutes are just 10¢ each. Text Messaging is billed at 10¢ per outbound message after the unlimited period has expired. Data Services are available at \$1 per MB.

*A dollar credit will be automatically applied to a customer's account on the date that the airtime card/PIN is redeemed. Expiration date of these funds will adhere to the standard business rules associated with card/PIN denomination. These funds may be used at the customer's discretion on available services.



PLAN OPTION 2

- 250 minutes/texts



As an **Access Wireless** user, you can add money to your account by:

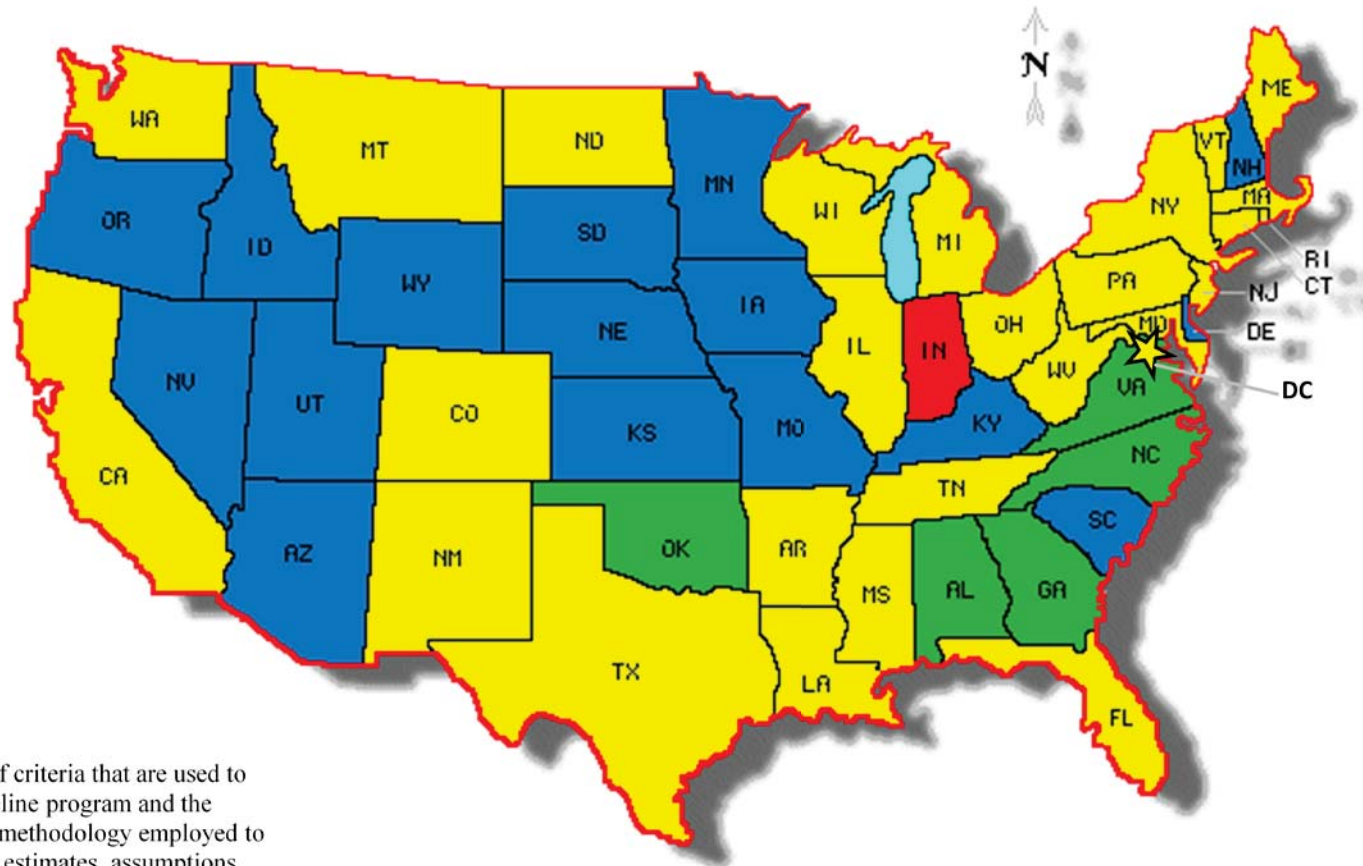
- Purchasing an i-wireless airtime card at Kroger-owned stores
- Using a debit or credit card to add minutes
- Purchasing a PIN at convenience stores nationwide

EXHIBIT 6

2010 Lifeline Participation Rates by State

2010 Lifeline Participation Rates by State

- - Below 10%
- - 10% - 20%
- - 20% - 50%
- - Above 50%



Notes:

Due to the intricacy and range of criteria that are used to determine eligibility for the Lifeline program and the limitations of the data used, the methodology employed to create this map involves several estimates, assumptions, simplifications, and omissions. Therefore, the rates generated on this map should be treated as estimates only.

EXHIBIT 7

Application for ETP to Provide OTAP Services

Oregon Telephone Assistance Program (OTAP) Application
for Eligible Telecommunications Provider (ETP) to provide OTAP Services

i-wireless, LLC

Part I. Application Information and Service Plan

1. Contact information pertaining to your designated staff who would be handling OTAP communications:

Name: Nicki Wollenhaupt

Address: 1 Levee Way, Suite 3104

City: Newport State: Kentucky Zip: 41071

Phone number: (513) 544-4892 Fax: (859) 261-6639

E-Mail: nicki.wollenhaupt@iwirelesshome.com

2. The number of residential, business and tribal basic service customers served by the applicant as of December 31, of the most recent calendar year.

As of December 31, 2011, Applicant had (CONFIDENTIAL) wireless customers in Oregon.

Part II. Conditions to Provide OTAP Services to Qualifying Oregonians

These conditions apply in addition to the general conditions of certification. Violating these conditions, or misrepresenting information provided to PUC in the course of administering the OTAP programs may result in cancellation of your authority to provide OTAP Services and/or an order requiring you to refund with interest and penalties of any OTAP support distributed under false information.

1. The applicant agrees to offer reduced residential rates with all service offerings that include basic telephone or cellular service to eligible low-income customers pursuant to the Oregon Telephone Assistance program (OTAP).
2. The applicant understands that only PUC may approve OTAP benefits for the consumer and provide benefits to OTAP consumers after PUC has notified the applicant of their eligibility. A telecommunication provider who grants OTAP benefits to ineligible customers will have the total amount of the OTAP benefits that were given to those customers deducted from the monthly or quarterly OTAP

- reimbursement invoices that the telecommunications provider submits to the Commission.
3. The applicant agrees that they will ensure the consumer will see their OTAP credit within 30 days from the date that the applicant has been notified of the consumer's eligibility status, and to remove consumers within 30 days after they no longer qualify for OTAP benefits.
 4. The applicant agrees that they will submit reports for reimbursement quarterly (if they have less than 1,000 OTAP consumers) or monthly (if they have more than 1,000 OTAP consumers). Reports are expected to be submitted even if there are zero consumers.
 5. An OTAP recipient is required to be the named subscriber to the local telecommunication service in order for that household to qualify for OTAP benefits. PUC may waive this requirement if it determines that good cause exists. Applicant agrees to comply with reimbursing OTAP consumers who are not named subscribers at the Commission's request.
 6. The applicant agrees to apply Commission assigned OTAP identification numbers to its OTAP customers' accounts.
 7. Based upon accounting procedures approved by the Commission, the applicant agrees to maintain accounting records so that costs associated with OTAP can be separately identified. Records must be provided to the Commission upon request.
 - a. **Active OTAP Customer Report:** The applicant agrees to submit an Active OTAP Customer Report listing the names of all customers with the Commission assigned identification number receiving the OTAP benefits. Applicants with 1,000 or more OTAP customers must submit the report monthly to the Commission Applicants with fewer than 1,000 OTAP customers must submit the report quarterly to the Commission.
 - b. **Order Activity Report:** The applicant agrees to submit an Order Activity Report listing the names of all OTAP customers with the Commission assigned identification number whose service was disconnected. The applicant is aware that the Commission may require additional information such as a listing of all OTAP customers whose telephone numbers or addresses have changed.
 - c. **No Match Report:** The applicant agrees to notify the Commission of any discrepancy that prevents a customer from receiving the OTAP benefit after the Commission has notified the applicant of customers who meet eligibility criteria on a weekly basis.

8. The applicant agrees to ensure that confidential information (including phone number, addresses, contact information, etc.) of OTAP recipients is protected (OAR 860-033-0010). The applicant agrees to maintain a written policy to ensure that the applicant's staff does not breach the confidentiality of OTAP consumers, and to do background checks on employees who have access to customer records.
9. The applicant agrees to have in place database encryption and firewall technologies to protect customer service information stored electronically.

s/PA

APPLICANT UNDERSTANDS ALL OF THE ABOVE CONDITIONS AND AGREES TO ABIDE BY ALL APPLICABLE COMMISSION RULES, STATE LAW AND THE CONDITIONS OF CERTIFICATION. PLEASE INITIAL BOX AT LEFT.

/s/ Paul McAleese
Signature of person authorized to represent applicant

CEO
Title

Paul McAleese
Printed Name

April 24, 2012
Date

Oregon Telephone Assistance Program (OTAP) Application
for Eligible Telecommunications Provider (ETP) to provide OTAP Services

i-wireless, LLC Petition for Waiver

The Oregon Administrative Rules (OAR) 860-033-0005(3)(c) require an ETP applicant to demonstrate that it will comply with OAR 860-033-0005 through 860-33-0100. Applicant will comply with said OAR regulations to the extent that they are applicable to a prepaid wireless provider. Applicant hereby petitions the Commission for waiver of the following rules that are not applicable to Applicant:

860-033-0030(6) - This rule requires the name of the applicant or recipient to appear on the billing statement for the telecommunications service in order to qualify for OTAP benefits. The Commission may waive this requirement if good cause exists. Applicant, as a provider of prepaid services, does not issue billing statements, and thus requests a waiver of the requirement.

860-033-0035(1)(A-B) - Applicant will comply with sub-sections (1)(A) and (1)(B), which relate to the OTAP benefit on tribal lands, to the extent that Applicant is eligible to receive Tier IV support.

860-033-0050 - This rule relates to Link-Up America eligibility. Applicant is not seeking designation as an ETP to provide Link-Up service. Therefore, this rule does not apply to Applicant and Applicant petitions the Commission for waiver of this rule.

860-033-0055 - This rule relates to Link-Up America benefits. Applicant is not seeking designation as an ETP to provide Link-Up service and is not permitted to do so by the conditions of its FCC Forbearance Order. Therefore, this rule is not applicable to Applicant and Applicant petitions the Commission for waiver of this rule.

860-033-0100 - This rule relates to toll-limitation service. There is no need for Applicant to offer a toll limitation feature to qualifying low-income customers. Since Applicant's service is a prepaid service, no customers will be disconnected for failure to pay toll charges or, for that matter, any other charges. Applicant treats long distance minutes of use as any other usage and the customers are not charged separately for toll services. Inasmuch as all Applicant's services are prepaid, there is no danger that low income customers will incur large charges for heavy toll (or other) calling and no risk that they will be disconnected for nonpayment. Therefore, it is unnecessary for Applicant to offer toll limitation service and Applicant petitions the Commission for waiver of this rule.

EXHIBIT 8

Confidential ETP Application Information

These materials contain confidential, proprietary, and financial information not generally available to the public. Due to the highly competitive nature of the telecommunications marketplace, the Company deems this material proprietary trade secrets. Accordingly, these materials have been marked as confidential and are being submitted under seal to be maintained by the Commission and the Staff on a confidential basis subject to ORS 192.501(2).

EXHIBIT 9
911 Certification

**Sprint – Wholesale Wireless Solutions**

Mailstop: VARES0603 -E6005
12000 Sunrise Valley Drive
Reston, VA 20191

VIA FACSIMILE: (859) 261-6639

January 19, 2011

Mr. Pat McDonough
i-Wireless, LLC
One Levee Way, Suite 3104
Newport, KY 41071

Re: Private Label PCS Services Agreement between Sprint Spectrum L.P. ("Sprint") and i-Wireless, LLC ("Purchaser") with an Effective Date of May 22, 2006, as amended (the "Agreement") – 911 and E911 Service

Dear Mr. McDonough:

As requested by Purchaser, this letter sets forth details regarding Sprint's routing of E911 (as defined below) calls from Purchaser's End Users (as defined in the Agreement). As set forth in the Agreement, Sprint provides wireless services to Purchaser on Sprint's network and Purchaser resells such wireless services to its End Users under Purchaser's brand ("**Private Label Service**").

Sprint currently routes 911 calls from customers to the Public Safety Answering Points (PSAPs) in each state. Purchaser's End Users that receive the Private Label Service will have access to 911 and enhanced 911 ("**E911**") service. In this regard, Sprint hereby confirms that it routes 911 and E911 calls from Purchaser's End Users utilizing the Private Label Service to PSAPs in the same manner as Sprint routes 911 and E911 calls from its own customers.

In accordance with the applicable Federal Communications Commission ("**FCC**") requirements, Sprint has engaged in 911 testing with PSAPs to confirm access to 911 and E911 service. Thus, as a wholesale customer of Sprint, Purchaser's End Users utilizing the Private Label Service will have the same access to 911 and E911 service as Sprint's own customers.

Sincerely,

A handwritten signature in black ink, appearing to read "Andy Greig".

Andy Greig
Director – Sales
Emerging Markets and Embedded Devices

EXHIBIT 10

Key Management Bios

Paul McAleese

Paul McAleese, CEO and co-founder of i-wireless, LLC, has 20 years of experience in the wireless telecommunications industry.

In 2005, Mr. McAleese co-founded i-wireless LLC, a privately held company with 51-200 employees. i-wireless is the private-label wireless service sold exclusively within the Kroger family of stores. As one of the nation's largest grocery retail chains, Kroger operates over 2500 stores under two dozen local banner names including: Kroger, Ralphs, Fred Meyer, Food4Less, Fry's, King Soopers, Smith's, Dillons, and QFC.

Unique among US wireless operators, i-wireless offers Kroger customers the ability to earn Free Minutes loyalty rewards on their i-wireless phone when they use their Shopper's card on qualifying purchases, potentially eliminating their cell phone bill altogether.

i-wireless is proud to count amongst its investors Spark Capital, Sprint, and the Kroger Company.

CEO and co-founder

i-wireless LLC

July 2005 - Present (6 years 8 months)

Chief Marketing Officer

Cincinnati Bell

January 2004 - July 2005 (1 year 7 months)

General Manager, Consumer Markets

O2 PLC, London

June 1998 - December 2003 (5 years 7 months)

Vice-President, Consumer Marketing & Sales Rogers Wireless August 1992 - May 1998 (5 years 10 months)

John Willis

John Willis is Chief Operating Officer of i-wireless LLC, a privately held company with 51-200 employees. i-wireless is the private-label wireless service sold exclusively within the Kroger family of stores. As one of the nation's largest grocery retail chains, Kroger operates over 2500 stores under two dozen local banner names including: Kroger, Ralphs, Fred Meyer, Food4Less, Fry's, King Soopers, Smith's, Dillons, and QFC.

Prior to his role as COO, Mr. Willis served as Vice President of Operations for i-wireless, LLC. Before joining i-wireless, LLC in 2006, Mr. Willis served as Director at Cincinnati Bell and Manager at Verizon Wireless.

EXHIBIT 11

Notice to ETCs

To: Oregon Eligible Telecommunications Carriers

Please be advised that i-wireless, LLC has filed with the Public Utility Commission of Oregon for Designation as an Eligible Telecommunications Carrier in the non-rural exchange areas of CenturyLink and Frontier Communications Northwest Inc.

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Attorney for i-wireless, LLC