

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).