

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

In the Matter of
Telecommunications Carriers Eligible for
Universal Service Support
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

Adopted: May 7, 2024

Released: May 7, 2024

By the Chief, Wireline Competition Bureau:

INTRODUCTION

1. On February 21, 2013, i-wireless, LLC (i-wireless) filed a Request to Amend the appendix to the Wireline Competition Bureau’s (Bureau) order granting the company eligible telecommunications carrier (ETC) status in the state of Florida for the purpose of providing Lifeline services.1 The Request to Amend was meant to correct an inadvertent clerical omission in a list of study areas submitted by i-wireless and used by the Bureau as the appendix detailing the scope of the Bureau’s June 13, 2012 ETC designation order for i-wireless operations in the state of Florida. Given the unique circumstances presented, we find it in the public interest to grant i-wireless’s amendment request nunc pro tunc to the date of the original order.2

BACKGROUND

2. Congress directed the Commission to establish the universal service support mechanisms 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.4 Section 254(e) of the Communications Act of 1934, as amended, (Act) provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.”5 Section 214(e)(2) of the Act gives state commissions the primary responsibility for designating ETCs in their states.6 Section 214(e)(6) directs the Commission, upon

1 Request of i-wireless to Amend Designated Service Area in the State of Florida, WC Docket No. 09-197 (filed Feb. 21, 2013), https://www.fcc.gov/ecfs/filing/6017164627 (i-wireless Request to Amend).

2 Telecommunications Carriers Eligible for Universal Service Support et al., WC Docket No. 09-197, Order, 27 FCC Rcd 6263 (WCB 2012) (i-wireless Designation Order).

3 47 U.S.C. § 254(b)(1), (3).

4 See 47 CFR § 54.403(a).

5 47 U.S.C. § 254(e).

request, to designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission.”<sup>7</sup> Under section 214(e)(6), the Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience, and necessity, so long as the requesting carrier meets the requirements of section 214(e)(1).<sup>8</sup> Before designating an additional ETC for an area served by a rural telephone company, the Commission must determine that the designation is in the public interest.<sup>9</sup> The Bureau has delegated authority to consider ETC designation requests.<sup>10</sup>

3. As described below, the original ETC designation for i-wireless in Florida excluded the AT&T study areas due to a clerical error in submissions made to the Commission. On June 29, 2011, i-wireless filed its original application for ETC status in Florida, requesting “ETC designation for its entire service area in Florida (i.e., the area served by its underlying carriers).”<sup>11</sup> On July 5, 2011, the Wireline Competition Bureau sought comment on that application by Public Notice.<sup>12</sup> No comments were received. Subsequently, on April 2, 2012, i-wireless amended its application for ETC designation in several states, including Florida, requesting “ETC designation for its entire service area in ... Florida... (i.e., the area served by the facilities-based carriers from whom it obtains wholesale service), but excluding any Tribal Areas.”<sup>13</sup>

4. The Bureau approved i-wireless’s ETC status in Florida on June 13, 2012,<sup>14</sup> identifying the relevant study areas in an appendix that was derived from a submission by i-wireless. AT&T’s study area in Florida, which includes portions of several major population centers such as Miami, Ft. Lauderdale, Palm Beach, Orlando, and Jacksonville, was not included in the i-wireless submission or the appendix.

5. On February 21, 2013, after realizing the inadvertent omission, i-wireless formally filed a request to amend its designated service area in Florida to include AT&T’s study area. In the Request to Amend, i-wireless asserted that “the AT&T study area was inadvertently omitted from the list of approved service areas in Florida.”<sup>15</sup> i-wireless later supplemented the Request to Amend with a letter, in which, i-wireless states that it “is seeking a formal amendment to its ETC designation to correct that designation for the inadvertent clerical omission of the AT&T Florida service areas” and that its request “should be viewed as a correction of a prior order, and not as a new service area designation.”<sup>16</sup> As i-

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<sup>6</sup> See 47 U.S.C. § 214(e)(2).

<sup>7</sup> 47 U.S.C. § 214(e)(6).

<sup>8</sup> See *id.*

<sup>9</sup> See *id.*

<sup>10</sup> See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 22947, 22948 (1997) (*Section 214(e)(6) Public Notice*).

<sup>11</sup> i-wireless, Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Florida, WC Docket No. 09-197, at 12 (filed June 15, 2011) (2011 Petition).

<sup>12</sup> *Wireline Competition Bureau Seeks Comment on i-Wireless, LLC Petition for Designation as an Eligible Telecommunications Carrier in the State of Florida*, WC Docket No. 09-197, Public Notice (WCB 2011).

<sup>13</sup> Amended 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, at 11 (filed Apr. 2, 2012) (2012 Amended Petition). Study areas for Florida were missing from the list of non-rural telephone company study areas attached to the 2012 Amended Petition.

<sup>14</sup> *i-wireless Designation Order*.

<sup>15</sup> See i-wireless Request to Amend at 2.

wireless explains, i-wireless sought approval for its entire service area in its Florida original application.<sup>17</sup> i-wireless further states that the error in the i-wireless Designation Order “occurred because i-wireless informally provided an erroneous list to the Bureau that inadvertently left out AT&T Florida, even though it had been obviously covered by the plain language of both the 2011 Petition and the 2012 Amended Petition.”<sup>18</sup> Since that time, i-wireless has met with Commission staff and continued to request that the i-wireless Designation Order be corrected.<sup>19</sup>

## DISCUSSION

6. The Commission has established procedures that a carrier must follow when requesting designation as an ETC from the Commission.<sup>20</sup> In designating i-wireless to operate in portions of Florida, the Bureau determined that i-wireless had satisfied these procedures and requirements.<sup>21</sup> The Bureau also engaged in an analysis of the public interest when determining whether to grant i-wireless’s ETC designation petition, as amended.<sup>22</sup> The Bureau thus concluded that granting the original i-wireless Designation Order was in the public interest. Furthermore, but for the clerical error, the Bureau would have granted the request with the inadvertently omitted study area in June 2021. As such, we are persuaded that it is in the public interest to grant the request to correct a clerical error in the appendix to the original grant.

7. The action that the Bureau takes today is driven by the unique circumstances of this situation, which involve several clerical errors and omissions across multiple filings and submissions related to i-wireless’s ETC designation. In seeking relief, i-wireless through counsel has represented that:

. . . [O]n April 2, 2012, i-wireless filed an amended petition for ETC designation in Florida, among other states. Once again, in the body of its 2012 Amended Petition, i-wireless requested “ETC designation for its entire service area in . . . Florida . . . (i.e., the area served by the facilities-based carriers from whom it obtains wholesale service), but excluding any Tribal Areas.” As reflected in the body of the 2012 Amended Petition, the only intended modification was to clarify that Tribal Areas were excluded. Although n. 19 [in the 2012 Amended Petition] cross-referenced Exhibit L [“chart reflecting the service areas of the non-rural and rural telephone companies that i-wireless’ authorized service area covers”], no Florida service areas of any ILEC were listed in Exhibit L,

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<sup>16</sup> Letter from Lance J.M. Steinhart counsel to i-wireless, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-197 (filed July 16, 2013) (i-wireless Letter).

<sup>17</sup> *Id.*; see also 2011 Petition, at 2, 12; 2012 Amended Petition, at 3, 11.

<sup>18</sup> i-wireless Letter, at 2.

<sup>19</sup> See Letter from Lance J.M. Steinhart counsel to i-wireless, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-197 (Filed Oct. 25, 2019) (“We discussed the points summarized in i-Wireless’ clarification letter filed on July 16, 2013, which have been discussed with Staff many times in the intervening time period. We asked that the Bureau correct Exhibit B of the June 2012 ETC designation order for Florida to reflect the fact that i-wireless had applied for ETC designation in the BellSouth service area as well as the rest of Florida.”)

<sup>20</sup> See *Section 214(e)(6) Public Notice*, 12 FCC Rcd at 22948-9, paras. 1-5; see also *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, 27 FCC Rcd 6656, 6813, para. 368 (2012) (adopting a blanket forbearance of the facilities requirement of section 214(e)(1)(A) for non-facilities based carriers that seek limited ETC designation to participate in the Lifeline program).

<sup>21</sup> See *i-wireless Designation Order*, 27 FCC Rcd at 6263-64, para. 2. We note that Florida recently asserted jurisdiction to grant ETC designations for wireless service providers in the state. See Florida Senate Bill 478 (2024), <https://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=79072&>. As today’s change is impacting a Bureau-granted designation on delegated authority back to the date of the original designation, we believe that it is appropriate for this modification to come from the Bureau.

<sup>22</sup> See *i-wireless Designation Order*, 27 FCC Rcd at 6271, paras. 27-28.

which was a clear clerical error. This did not, however, alter the scope of the ETC request on which the Commission had sought public comment in 2011.

On June 13, 2012, the Wireline Competition Bureau, acting on delegated authority from the Commission, conditionally granted i-wireless' request for ETC designation, as amended in the 2012 Amended Petition. Appendix B to that Order listed the non-rural Telephone Company Study Areas included in i-wireless' ETC Service Area, listing Verizon Florida, but not AT&T Florida. This omission occurred because i-wireless informally provided an erroneous list to the Bureau that inadvertently left out AT&T Florida, even though it had been obviously covered by the plain language of both the 2011 Petition and the 2012 Amended Petition. . . . This was simply a clerical error.<sup>23</sup>

8. After careful review of the filings described above,<sup>24</sup> it is clear that i-wireless had sought ETC designation for its entire service area in Florida, including the AT&T study area, and but for the clerical error, the Bureau would have granted that request in June 2012. By granting i-wireless's request to amend the applicable appendix nunc pro tunc, we correct this clerical error.

9. This grant is conditioned on i-wireless's compliance with: (i) the representations and commitments made by i-wireless in its amended ETC designation petition;<sup>25</sup> (ii) the *i-wireless Forbearance Order*;<sup>26</sup> (iii) the commitments i-wireless made in its compliance plan;<sup>27</sup> (iv) the commitments made in i-wireless's Request to Amend;<sup>28</sup> (v) the representations made in the i-wireless Letter; (vi) i-wireless's original ETC designation order;<sup>29</sup> and (vii) the Commission's rules.<sup>30</sup> The action the Bureau takes today is effective nunc pro tunc to June 13, 2012, the date on which the Bureau granted i-wireless its ETC designation, without prejudice to any enforcement investigation that may be warranted.

#### IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 214(e)(6) and 416(b) of the Communications Act of 1934, 47 U.S.C. §§ 214(e)(6) and 416(b), and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, that In the Matter of Telecommunications Carriers Eligible for Universal Service Support et al., WC Docket No. 09-197, Order, 27 FCC Rcd 6263 (WCB 2012) IS AMENDED TO THE EXTENT INDICATED HEREIN.

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<sup>23</sup> i-wireless Letter at 2 (internal citations omitted).

<sup>24</sup> These filings include the 2011 Petition, 2012 Amended Petition, i-wireless Request to Amend, and the i-wireless Letter.

<sup>25</sup> See 2012 Amended Petition.

<sup>26</sup> See *Federal-State Joint Board on Universal Service, Telecommunications Carriers Eligible for Universal Service Support, 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, 8791, para. 20 (2010) (*i-wireless Forbearance Order*).

<sup>27</sup> See *Federal-State Joint Board on Universal Service, Telecommunications Carriers Eligible for Universal Service Support, 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, i-wireless, LLC's Revised Compliance Plan (filed Sept. 9, 2011) (i-wireless Revised Compliance Plan); *Federal-State Joint Board on Universal Service, Telecommunications Carriers Eligible for Universal Service Support, 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, 26 FCC Rcd 14508, 14509-10, paras. 2-5 (2011) (*i-wireless Compliance Plan Order*).

<sup>28</sup> [i-wireless Petition to Amend](#).

<sup>29</sup> See *i-wireless Designation Order*.

<sup>30</sup> See generally *Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42, 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 Reform Order*).

11. IT IS FURTHER ORDERED that, pursuant to the authority contained in section 214(e)(6) and 416(b) of the Communications Act of 1934, 47 U.S.C. §§ 214(e)(6) and 416(b), and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, Appendix B to In the Matter of Telecommunications Carriers Eligible for Universal Service Support et al., WC Docket No. 09-197, Order, 27 FCC Rcd 6263 (WCB 2012) is amended nunc pro tunc to June 13, 2012, to include the study areas in Florida served by Bellsouth Telecommunications, LLC d/b/a AT&T Florida.

12. IT IS FURTHER ORDERED that a copy of this order SHALL BE TRANSMITTED by the Wireline Competition Bureau to the Florida Public Service Commission and the Universal Service Administrative Company.

13. IT IS FURTHER ORDERED that pursuant to section 1.102 of the Commission's rules, 47 CFR § 1.102, this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Trent Harkrader  
Chief  
Wireline Competition Bureau