

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF TOTAL)	
CALL MOBILE, INC. FOR LIMITED DESIGNATION)	
AS AN ELIGIBLE TELECOMMUNICATIONS)	Docket No. TC12-192
CARRIER)	

SDTA Petition to Intervene

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. On or about December 14, 2012, "Total Call Mobile, Inc." (hereinafter referenced as "Total Call") filed a "Petition for Limited Designation as an Eligible Telecommunications Carrier ("ETC")" with this Commission seeking ETC designation "solely to provide Lifeline service to qualifying South Dakota consumers." Total Call states that "it will not seek access to funds from the federal Universal Service Fund ("USF") for the purposes of participating in the Link-Up program or providing service to high cost areas."

3. In regards to the geographic scope of its Petition for ETC Designation, Total Call states generally that it "seeks ETC status throughout the entire State of South Dakota" (page 15). Other more specific statements made in the Petition, however, indicate that this may not be the case. Total Call notes in its Petition that it is not a facilities-based wireless carrier and that its services are only available through the purchase and resale of underlying carrier services. More specifically, on page 3 of its Petition, Total Call states that

it provides its “prepaid and postpaid wireless telecommunications services to consumers by reselling the network services of Sprint PCS (“Sprint”).” This resale arrangement with Sprint PCS appears to have some impact as to the geographic area over which Total Call is able to provide its described wireless services. Statements are made indicating that the ETC service area will be limited to where Sprint, as Total Call’s underlying carrier, has wireless coverage. (See par. 15). In addition, with respect to “Lifeline handsets,” specifically, Total Call indicates that any “roaming ability” is blocked on such phones.” These statements raise significant questions as to whether Total Call does, in fact, intend to offer and can provide its wireless services throughout all areas of South Dakota.¹

4. All of the SDTA member companies operate as “rural telephone companies” for purposes of the Federal Telecommunications Act of 1996 and under applicable state laws.

5. If the Petition filed by Total Call does, in fact, seek statewide ETC designation for Lifeline purposes, all of the SDTA member local exchange carriers (LECs) have an interest in and stand to be impacted by this proceeding. SDTA seeks intervention herein based on the individual interests of each of its member ILECs and based on their common interests to ensure that the additional public interest protections contained in the federal and state laws pertaining to ETC designations in rural service areas are properly considered and applied. With respect to the Petition for Designation as filed by Total Call, SDTA has a number of concerns.

6. First, if Total Call is seeking a statewide designation, the provisions of ARSD § 20:10:32:46 are applicable and require that a copy of Total Call’s Petition for ETC designation be provided, “at the time of filing,” to all of SDTA’s member companies, all of which have long been serving as ETCs within their established rural service areas. To

¹ Exhibit 7, the “Wire Center List” also raises questions. It includes a listing of many South Dakota wire centers and relative to such wire centers indicates that “CDMA coverage” is not available in most of the areas.

SDTA's knowledge, the provisions of ARSD § 20:10:32:46 have not yet been complied with by Total Call Mobile. As of today, based on present information and belief, SDTA is not aware that any of its member companies have received from Total Call a copy of the filed ETC Petition. Consequently, to date, none of the SDTA members have received direct notice of the Total Call filing.

7. Secondly, there is good reason to question based on the information provided by Total Call that its request for statewide ETC designation (even for Lifeline only) is not supported. There are legitimate questions as to whether the company can, in fact, respond to reasonable requests for service and actually provide its wireless services anywhere within the State. A number of statements in the application suggest that the services will be limited to those parts of South Dakota where Sprint PCS has wireless spectrum and its own network facilities. As this Commission knows, Sprint's wireless network and signal coverage in South Dakota is somewhat limited.

8. Further, in regards to any Petition for ETC Designation which extends to rural service areas an additional "public interest" standard applies and, contrary to what Total Call seems to suggest, state commission are not obligated to grant multiple ETC designations in such areas (47 U.S.C. § 214(e)(2) and SDCL § 49-31-78). In addition to the concerns noted above related to Total Call's ability to actually provide its described wireless services (including Lifeline services) to all areas within South Dakota, SDTA questions whether the additional requested ETC designation would be in the best interest of rural service area consumers.

9. SDTA does not view this Petition for Intervention as being late-filed given the failure of Total Call Mobile to comply with the provisions of ARSD 20:10:32:46. In any event, if this request is considered to be untimely, it should be granted under the present

circumstances. It is SDTAs' understanding that the discovery process has not yet been completed by PUC Staff and, as of today, no procedural schedule establishing a timeline for final Commission action in the proceeding has been set. Granting this Petition to Intervene would not in any way prejudice the rights of Total Call Mobile, but denying it would be contrary to the due process rights of SDTA and its member companies.

10. Based on all of the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status.

Respectfully submitted:
SDTA

A handwritten signature in black ink, appearing to read "Richard D. Coit", written over a large, stylized circular flourish.

Richard D. Coit
Executive Director and General Counsel

Dated this 20th day of February, 2013