

June 26, 2024

BY ELECTRONIC FILING

Re: In the Matter of the Petition of AirVoice Wireless, LLC dba AirTalk Wireless for Designation as an Eligible Telecommunications Carrier in the State of South Dakota, Docket No. TC22-009

Please find attached the responses of AirVoice Wireless, LLC to the Commission's Third Data Request.

Exhibit 1 contain confidential information and has been attached as a separate document and marked accordingly. Air Voice Wireless, LLC., d/b/a Air Talk Wireless respectfully requests confidential treatment of the Exhibit 1. The Applicant expects that this information will be restricted to counsel, agents and employees who are specifically assigned to this application by the Commission.

Respectfully Submitted,

/s/ H. Henry Shi
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Docket Number: TC22-009
Subject Matter: Third Data Request
Request to: AirVoice Wireless, LLC dba AirTalk Wireless (AirVoice or Company)
Request from: South Dakota Public Utilities Commission Staff
Date of Request: May 29, 2024
Responses Due: June 26, 2024

- 3-1. Refer to Exhibit 3 filed on April 30, 2024. Provide a thorough description of the complaints AirVoice addressed and how each of the complaints was resolved.

AirVoice Response: As stated in AirVoice’s April 30, 2024, response, AirVoice did not receive the specifics of the complaints from the Better Business Bureau.¹ Had AirVoice received the complaints, its protocol would be to contact the customer who made the complaint, either through the telephone number on record of the email address provided through the email service request ticketing platform and then discuss with the customer on the best ways to resolve their complaints consistent with AirVoice’s terms and conditions.

- 3-2. Provide the in-house customer service/satisfaction survey results and a synopsis of the daily customer service call center reports that Commissioner Fiegen requested at the September 27, 2022 commission meeting.

AirVoice Response: Please see Confidential Exhibit 1 for the results of AirVoice’s customer service satisfaction survey for the three-month period immediately preceding the September 2022 hearing, i.e., June, July, and August 2022, as well as the most recent three-month period, i.e., March, April, and May 2024.

- 3-3. Given that an AirVoice search on Google still shows a large majority of the reviews to be negative, explain how granting certification to AirVoice would be in the public interest.

AirVoice Response: AirVoice is committed to improving its customers’ experience and satisfaction with its services, and it regrets when its customers get frustrated.

Unfortunately, no wireless provider, AirVoice included, is able to have complete control over every aspect of each user’s experience, and some users will inevitably have difficulties or frustrations. The complaints in online reviews that we have seen, however, are a miniscule percentage of the overall number of AirVoice subscribers, who AirVoice successfully serves and who stay with AirVoice. AirVoice is far from being an outlier in having negative online reviews. To take just one example, the Commission recently granted Assurance Wireless’s ETC application.² One of top Google search results, from Trustpilot.com, shows an overwhelming

¹ See AirVoice Supplemental Information, Exhibit 3, Docket No. T22-009 (filed Apr. 30, 2024).

² See *Petition of Assurance Wireless USA, L.P. for Designation as an Eligible Telecommunications Carrier for Purpose of Offering Lifeline Service to Qualifying Customers*, Order Granting Petition, TC24-002 (May 15, 2024).

number of very negative reviews.³ AirVoice does not express any view as to the merits of any of the review, but cite this merely as an example of the prevalence of negative online reviews for similarly situated carriers.

Designating AirVoice as an ETC serves the public interest because it provides customers in South Dakota more choice in Lifeline providers. This is especially the case because AirVoice utilizes online enrollments, rather than using street agents. This allows AirVoice to market effectively to individuals who are not located in population centers. Given more options, if a customer is dissatisfied with the service provided by an existing ETC provider, it will have the option to switch to AirVoice, and vice versa. More competition will spur all providers to improve their service in order to retain customers, thus benefiting all South Dakota Lifeline users.

- 3-4. The Google search reviews ranged from customers not being happy with AirVoice's customer service and support to customers that had AirVoice phones that wouldn't work. Explain the steps AirVoice has taken to improve customer experience.

AirVoice Response: AirVoice has taken extensive steps to ensure our customers have access to contact us through a variety of means including by phone, email, LiveChat and through social media channels. This ensures that questions or concerns can be quickly addressed. AirVoice also uses these same channels to receive customer feedback to assist us in our support efforts. All AirVoice customer service representatives receive training, including additional refresher courses and continuous education which include basic troubleshooting, de-escalation and problem solving skills, and policy review.

- 3-5. Confirm everything filed online in docket TC22-009 is still accurate (aside from what was updated in the April 30, 2024, filing). If not, provide updates to anything that has changed since its original filing.

AirVoice Response: AirVoice supplements its application with the following information:

1. On March 5, 2024, the FCC approved a further revised compliance plan for AirVoice.⁴ A copy of the that compliance plan is attached hereto as Exhibit 2.
2. As of June 26, 2024, AirVoice is providing mobile service exclusively on AT&T's network, and is not longer providing service over T-Mobile's network.
3. In addition, AirVoice intends to utilize its network of retail partners (once established) to help promote the availability of its Lifeline plans, especially retail outlets that are frequented by low-income consumers. AirVoice will provide retail vendors with signage to be displayed where Company products are sold, and with printed materials describing the Company's Lifeline program.

³ See <https://www.trustpilot.com/review/assurancewireless.com> (last visited June 18, 2024) (showing an aggregate rating of 1.4 stars based on 334 reviews).

⁴ See Wireline Competition Bureau Approves Further Revised Compliance Plan of AirVoice Wireless, LLC, Public Notice, DA 24-209 (rel. Mar. 6, 2024).

4. AirVoice is applying for ETC designation as a non-facilities-based mobile Lifeline provider. As a resale-only mobile provider, AirVoice does not have the capability to modify the wireless network facilities or deploy equipment to customers' premises. Accordingly, AirVoice withdraws the following statement on page 17 of its 2022 Application, and respectfully requests the Commission to waive the requirements of ARSD 20:10:32:43.01 as inapplicable, consistent with its past practice.⁵

"In accordance with ARSD 20:10:32:43.01(1), AirVoice commits to provide service on a timely basis to requesting customers in its Designated Service Area where the applicant's network already passes the potential customer's premises, and provide service within a reasonable period of time if the potential customer is within the applicant's service area but outside its existing network coverage, if service can be provided at reasonable cost by:

- i. Modifying or replacing the requesting customer's equipment;
- ii. Deploying a roof-mounted antenna or other equipment;
- iii. Adjusting the nearest cell tower;
- iv. Adjusting network or customer facilities;
- v. Reselling services from another carrier's facilities to provide service; or
- vi. Employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment."

- 3-6. Pursuant to ARSD 20:10:32:43(3), provide "a detailed map for which the ETC designation is sought", confirming that AirVoice only requests service in the CenturyLink wire centers. This map should show each CenturyLink wire center AirVoice intends to serve and shade the areas AirVoice requests to serve in a different color than the rural areas AirVoice will not serve per the Stipulation with SDTA. In addition, include an outline of the tribal area boundaries.

AirVoice Response: Please see attached Exhibit 3-A for a map of the CenturyLink wire centers. AirVoice confirms that it is requesting designation to provide service only in these wire centers. Please see attached Exhibit 3-B for a map with outlines of tribal areas.

- 3-7. Provide a list of the CenturyLink wire centers AirVoice is requesting to serve.

AirVoice Response: AirVoice is requesting ETC designation to provide service in the following CenturyLink wire centers, which are also listed in the map attached as Exhibit 2-A:

⁵ See Application of Budget Prepay, Inc., dba Budget Mobile, for Designation as a Lifeline-Only Eligible Telecommunications Carrier in Non-Rural Areas, Order, TC12-125 (Sept. 24, 2012) ("Commission Staff recommended approval, and granting waivers of ARSD 20:10:32:43.01 and 20:10:32:43.02. The Commission voted unanimously to approve the petition and to grant the waivers.").

ABERDEEN ARLINGTON BELLE FOURCHE BLACKHAWK CAVOUR CHAMBERLAIN COLMAN CANTON DEADWOOD	DESMET ELK POINT FLANDREAU FORT PIERRE HILL CITY HARRISBURG HURON IROQUOIS LEAD LAKE PRESTON	MC INTOSH MADISON MILBANK MILLER MORRISTOWN MITCHELL PIERRE REDFIELD RS1 RAPID CITY RAPID VALLEY	SPEARFISH STURGIS SIOUX FALLS HOST SIOUX FALLS-SE SIOUX FALLS-SW TEA TIMBER LAKE VOLGA VERMILLION WHITEWOOD	WARWICK WATERTOWN YANKTON
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3-8. Explain how AirVoice will ensure customers are located in CenturyLink areas.

AirVoice Response: As part of AirVoice’s sign-up process, potential customers are required to provide their zip code, which AirVoice will check to determine service availability.

3-9. Explain how AirVoice will ensure tribal customers are located in CenturyLink areas, since some tribal lands extend into rural areas.

AirVoice Response: As noted in response to DR 3-8 above, AirVoice will check potential customers’ zip codes to determine service availability.

3-10. Will AirVoice be utilizing zip codes when enrolling customers? If so, provide a list of zip codes AirVoice intends to serve and provide a map overlaying the zip codes with the map provided in data request 3-6. In addition, explain how AirVoice will distinguish customers in rural and non-rural areas to ensure AirVoice only enrolls customers in non-rural areas.

AirVoice Response: AirVoice expects to use zip codes to determine service availability. AirVoice is compiling a list of the zip codes in which it will offer Lifeline service if it receives the requested ETC designation and will supplement this response as soon as practicable.

3-11. Pursuant to ARSD 20:10:32:43(1), provide “the name, address, and telephone number of the applicant and its designated contact person.” Is this the appropriate person for the PUC to call regarding customer complaints? If not, provide that person’s contact information as well.

AirVoice Response:

Octavia Clanton
 Email for complaints: Compliance@hthcomm.com
 Phone: 713-534-1950 ext. 711
 9920 Brooklet Drive
 Houston, Texas 77099

3-12. Pursuant to ARSD 20:10:32:43.01, confirm AirVoice will commit to “providing service throughout its proposed designated service area to all customers making a reasonable request for service.” Also, how does AirVoice plan to remedy a situation where a customer requests service but is outside of the coverage area.

AirVoice Response: As noted in response to DR 3-5 above, AirVoice is applying for ETC designation is a non-facilities-based mobile Lifeline provider. As a resale-only mobile provider, AirVoice does not have the capability to modify the wireless network facilities or deploy equipment to customers' premises. Accordingly, AirVoice respectfully requests the Commission to waive the requirements of ARSD 20:10:32:43.01 as inapplicable, consistent with its past practice.⁶

- 3-13. Explain in great detail how granting ETC designation to a CMRS provider that uses the underlying wireless networks of other carriers on a wholesale basis is in the public interest.

AirVoice Response: Granting AirVoice's ETC designation application serves the public interest because. As a CMRS reseller, AirVoice focuses on underserved communities that benefit the most from Lifeline with focused marketing and dedicated customer support for Lifeline. The FCC's Lifeline program is complex, and the support amount does not provide a significant profit margin. Not surprisingly, the national, facilities-based carriers do not focus on this program or the segment of the population it intends to serve. Mobile resellers like AirVoice have stepped in to fill the void. Furthermore, AirVoice online enrollment process is accessible to highly rural consumers, as well as those in towns.

The FCC recognized the public interest benefits of expanding Lifeline to mobile resellers when granted blanket forbearance from the prior requirement that Lifeline providers have their own facilities.⁷ The FCC concluded that doing so "will enhance competition among retail providers that service low-income subscribers. Lifeline-only ETCs offer eligible consumers an additional choice of providers for telecommunications services. The prepaid feature that many Lifeline-only ETCs offer is an attractive alternative for subscribers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts."⁸

Designating AirVoice as an ETC serves the public interest because it provides customers in South Dakota more choice in Lifeline providers. Given more options, if a customer is dissatisfied with the service provided by an existing ETC provider, it will have the option to switch to AirVoice, and vice versa. More competition will spur all providers to improve their service in order to retain customers, thus benefiting all South Dakota Lifeline users.

- 3-14. The main Airtalkwireless.com page advertises 15GB of data and a free 4G/5G Smartphone, but this advertised offering appears available only if both ACP and lifeline are applied. Will AirVoice update the website to reflect changes resulting when ACP is no longer being available? What is the timeframe for the update?

⁶ See Application of Budget Prepay, Inc., dba Budget Mobile, for Designation as a Lifeline-Only Eligible Telecommunications Carrier in Non-Rural Areas, Order, TC12-125 (Sept. 24, 2012) ("Commission Staff recommended approval, and granting waivers of ARSD 20:10:32:43.01 and 20:10:32:43.02. The Commission voted unanimously to approve the petition and to grant the waivers.").

⁷ See *Lifeline and Link Up Reforms and Modernization*, Report and Order and Further Notice of Proposed Rulemaking, DCC 12-22, ¶ 378 (2012).

⁸ *Id.*

AirVoice Response: AirVoice has updated its website at <https://airtalkwireless.com/plans> to reflect the end of ACP.

- 3-15. Does Airvoice offer any new devices for purchase? Does Airvoice disclose whether a device is pre-owned/refurbished to a customer prior to purchase? Does AirVoice offer any device warranty to customers? If so, provide the warranty details. If not, does AirVoice disclose there is no warranty to customers prior to purchase? Does AirVoice provide technical service on devices? If so, provide details.

AirVoice Response: All of AirVoice's devices are certified pre-owned, and this fact is prominently disclosed to consumers when they click on the page for a device. AirVoice offers a 15-day warranty, and customers can receive a full refund within 15 days of receipt of their device if it is found to be defective. AirTalk Wireless reserve the right to replace any defective mobile device with a replacement phone at its discretion. The details of the warrant are disclosed to customers on the terms and conditions page on AirVoice's website, <https://airtalkwireless.com/terms-conditions>, a link to which is also included in order confirmation emails to each customer.

- 3-16. From which company/companies does AirVoice obtain pre-owned/refurbished devices? Does AirVoice confirm, or have assurances from the supplier, that the devices are in good working order?

AirVoice Response: AirVoice purchases its devices from carrier auctions and tests all purchased devices to confirm they are in good working order.

- 3-17. Confirm AirVoice will port numbers upon request. What is the timeline for AirVoice to complete a request to port a number to or from a different carrier? Confirm AirVoice will comply with all applicable number portability requirements. Does AirVoice charge a fee to customers to port a number either to or from AirVoice? If so, what is the fee? Does AirVoice disclose this fee to customers prior to porting a number?

AirVoice Response: AirVoice confirms that it will port customers' numbers upon request and will comply with all applicable number portability requirements. AirVoice does not charge customers a fee to port a phone number in or out. The process of porting a phone number in or out can take up to two business days, provided that the phone number is still active and the necessary information (Account, PIN, Full Name, Zip Code) is correctly entered. This timeline also assumes that the other provider authorizes the release of the number. If these conditions are not met, the process may take longer due to the need for ongoing communication between the current provider, the next provider, and the customer to ensure all information is accurate.

- 3-18. Refer to Petition Pg 18. AirVoice commits to comply with the CTIA Consumer Code for Wireless Service. Provide a copy of CTIA Consumer Code for Wireless Service.

AirVoice Response: Please see attached Exhibit 4.

- 3-19. Refer to Petition Pg. 17. AirVoice “commits to provide service within a reasonable period of time if the potential customer is within the applicant’s service area but outside its existing network coverage, if service can be provided at reasonable cost by: i. Modifying or replacing the requesting customer’s equipment; ii. Deploying a roof-mounted antenna or other equipment; iii. Adjusting the nearest cell tower; iv. Adjusting network or customer facilities; v. Reselling services from another carrier’s facilities to provide service; or vi. Employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.” Explain in detail how AirVoice will implement each of these options as a reseller. Explain how AirVoice will determine whether the service can be provided at a reasonable cost. Does modifying or replacing the customer’s equipment per option (i) include modifying or replacing handsets or tablets obtained through AirVoice? If so, is there a cost to the customer?

AirVoice Response: As noted in response to DR 3-5 above, AirVoice withdraws the quoted statement above and respectfully requests the Commission to waive the requirements of ARSD 20:10:32:43.01 as inapplicable, consistent with its past practice.⁹

- 3-20. Explain how AirVoice complies with ARSD 20:10:32:43:05, requiring a company demonstrate that it offers a local usage plan comparable to the one offered by the incumbent local exchange carrier in the service area for which the applicant seeks designation.

AirVoice Response: AirVoice’s Lifeline plan offers free unlimited text and talk, together with up to 5 GB of data. Thus, AirVoice meets or exceeds the local usage permitted by the incumbent carrier. Indeed, AirVoice’s service is more beneficial because it is an any distance service that treats the entire country as if it were a local call. Moreover, the requirement in ARSD 20:10:32:43.05 relating to a comparable local usage plan was removed as a Lifeline requirement by the FCC, and this Commission has recently concluded that a Lifeline-only ETC applicant does not need to provide such information.¹⁰

- 3-21. Explain how AiVoice complies with ARSD 20:10:32:43.06, requiring an applicant to certify that it will be able to provide equal access to long distance carriers if no other eligible telecommunications carrier is providing equal access within the service area.

AirVoice Response: Similar to ARSD 20:10:32:43.05, this Commission has concluded that a Lifeline-only ETC applicant does not need to provide such information.¹¹ AirVoice provides any

⁹ See Application of Budget Prepay, Inc., dba Budget Mobile, for Designation as a Lifeline-Only Eligible Telecommunications Carrier in Non-Rural Areas, Order, TC12-125 (Sept. 24, 2012) (“Commission Staff recommended approval, and granting waivers of ARSD 20:10:32:43.01 and 20:10:32:43.02. The Commission voted unanimously to approve the petition and to grant the waivers.”).

¹⁰ See *Petition of Assurance Wireless USA, L.P. for Designation as an Eligible Telecommunications Carrier for the Purpose of Offering Lifeline Service to Qualifying Customers*, Order Granting Petition, TC24-002 (May 15, 2024) (“ARSD 20:10:32:43.05 requires that a requesting company demonstrate that it offers a local usage plan comparable to the one offered by the incumbent local exchange carrier in the service areas for which the applicant seeks designation. This requirement was removed from federal law back in 2012.¹³ Therefore, the Commission finds Assurance need not submit a local usage plan.”)

¹¹ See *id.* (“ARSD 20:10:32:43.06 requires an applicant requesting ETC designation to certify that it will provide equal access to long distance carriers if no other eligible telecommunications carrier is providing equal access

distance calling that essentially treats all calls as local. Any customer that wants to switch provider can do so by porting its wireless service, which makes equal access unnecessary to protect consumers.

within the service area. This requirement was removed from federal law in 2012. Therefore, the Commission finds such certification is not required in this matter.”).