

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION OF DISH)	ORDER APPROVING JOINT
WIRELESS LLC DBA GEN MOBILE FOR)	STIPULATION; ORDER GRANTING
DESIGNATION AS AN ELIGIBLE)	PETITION FOR DESIGNATION AS AN
TELECOMMUNICATIONS CARRIER IN THE)	ELIGIBLE TELECOMMUNICATIONS
STATE OF SOUTH DAKOTA FOR THE LIMITED)	CARRIER
PURPOSE OF PROVIDING LIFELINE SERVICE TO)	
QUALIFYING CUSTOMERS)	TC23-006

On March 29, 2023, the South Dakota Public Utilities Commission (Commission) received a Petition from Dish Wireless LLC dba Gen Mobile (Gen Mobile or Petitioner) for Designation as an Eligible Telecommunications Carrier (ETC) in the State of South Dakota. Gen Mobile is seeking statewide ETC designation for the limited purpose of providing Lifeline service to qualifying customers.

On March 30, 2023, the Commission electronically transmitted notice of the filing and the intervention deadline of April 14, 2023, to interested individuals and entities on the Commission's PUC Weekly Filing electronic listserv.

On March 30, 2023, the South Dakota Telecommunications Association (SDTA) filed a Petition to Intervene. On April 17, 2023, the Commission issued an Order Granting Intervention to SDTA. On May 14, 2024, SDTA and Dish Wireless filed a Stipulation and Agreement in which Gen Mobile agreed to limit its ETC designation to only South Dakota CenturyLink wire centers and to not extend into any rural service areas served by an SDTA member company. On April 17, 2025, SDTA, Gen Mobile and staff filed a Joint Stipulation regarding a hearing on the matter. On May 29, 2025, Staff filed its memorandum in this matter.

The Commission has jurisdiction in this matter pursuant to 47 U.S.C. § 214(e), 47 C.F.R. § 54.201, SDCL Chapter 1-26, specifically SDCL 1-26-20, and SDCL Chapter 49-31, ARSD Chapter 20:10:01, specifically ARSD 20:10:01:19, ARSD Chapter 20:10:32, specifically ARSD 20:10:32:43 through ARSD 20:10:32:43.07.

At its regularly scheduled meeting on June 3, 2025, the Commission considered this matter. All Parties having stipulated to the Commission rendering a decision as to the question of whether to grant Gen Mobile ETC designation for the purpose of receiving federal Lifeline support in nonrural areas based upon the filings in the docket as the record in the matter, the Commission voted unanimously to approve the Joint Stipulation. Finding that ETC designation was in the public interest, the Commission voted unanimously to grant Gen Mobile's Petition for ETC designation, conditioned upon the commitments made by Gen Mobile both in writing in this docket and orally on the record at the June 3, 2025, Commission meeting.

In order to be designated a Lifeline-only ETC, a carrier must offer voice telephony service or broadband Internet access service as the supported service, using its own facilities or a combination of its own facilities and resale of another carrier's services, throughout the service area for which the designation is received and advertise the availability of, and the charges for, those services throughout the service area. 47 U.S.C. § 214(e); 47 C.F.R. § 54.401(a)(2). Gen Mobile is a facilities-based provider that will utilize a combination of its own facilities, as well as the AT&T and T-Mobile networks.¹

The Federal Communications Commission (FCC) has designated the following voice telephony services for support by federal universal service support mechanisms: (1) voice grade access to the public switched network or its functional equivalent; (2) minutes of use for local service provided at no additional charge to end users; (3) access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and (4) toll limitation services to qualifying low-

¹ Staff Memorandum, p. 3-4.

income consumers. 47 C.F.R. § 54.101(a). Gen Mobile has committed to providing the supported services.²

The carrier must also advertise the availability of such services and the charges for the services using media of general distribution. 47 U.S.C. § 214(e)(1)(B). Gen Mobile stated that it will advertise the availability of its services and the charges in a manner reasonably designed to reach Lifeline-eligible consumers in accordance with all applicable requirements.³ The Commission finds that Petitioner has demonstrated that it will meet the advertising requirement.

ARSD 20:10:32:42 states, in part, “the commission may not find it to be in the public interest if the telecommunications company requesting such designation is not offering its services coextensive with the rural telephone company’s service area.” However, the FCC has granted forbearance to this requirement for companies seeking Lifeline-only ETC designation in the area of a rural telephone company.⁴ Therefore, the Commission may find this designation to be in the public interest although Petitioner will not offer its services coextensive with the rural telephone company’s service area.

Pursuant to ARSD 20:10:32:43, in its Petition and subsequent Data Responses, Gen Mobile has provided: (1) The name, address, and telephone number of the applicant and its designated contact person;⁵ (2) The proposed effective date of designation of eligible telecommunications carrier status;⁶ (3) Identification of the service area, including a detailed map, for which the designation is sought;⁷ (4) A statement supporting the petition which specifies why the requested designation satisfies the requirements for eligible telecommunications designation and receiving federal universal service support under 47 C.F.R. § 54.201 (January 1, 2006);⁸ (5) (not applicable);⁹ and (6) A statement specifying why the applicant’s proposed designation is in the public interest.¹⁰

Pursuant to ARSD 20:10:32:43.01, an applicant for ETC status must commit to providing service to customers making a reasonable request for service in the service area. In its Petition, Gen Mobile committed to adhering to the requirements of this rule.¹¹

ARSD 20:10:32:43.02 requires an applicant requesting designation as an ETC to submit a two-year plan that describes proposed improvements or upgrades to the applicant’s network throughout its proposed designated service area. As a Lifeline-only ETC, Petitioner will not be receiving high-cost support as contemplated by this administrative rule. Therefore, the Commission finds this rule is not applicable and a two-year plan is not necessary.

Pursuant to ARSD 20:10:32:43.03, an applicant must demonstrate its ability to remain functional in emergency situations including a demonstration that it has a reasonable amount of back-up power to remain functional in emergency situations without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. Gen Mobile has demonstrated that it has the ability to remain functional in emergency situations.¹²

Pursuant to ARSD 20:10:32:43.04, an applicant must demonstrate that it will satisfy applicable

² Staff Memorandum, p. 3.

³ Staff Memorandum, p. 4.

⁴ *In the Matter of Telecommunications Carriers Eligible for Support, Lifeline and Link Up Reform*, Memorandum Opinion and Order, WC Docket No. 11-42, FCC 13-44, ¶ 1.

⁵ Staff Memorandum, p. 5, citing Petition at p. 2 and response to Staff’s Data Request 2-1.

⁶ At the June 3, 2025 Commission meeting, Petitioner stated that it intends to provide services within two weeks after issuance of this Order.

⁷ See Revised Map, filed March 27, 2025.

⁸ Petition, p. 2.

⁹ “If the applicant is seeking additional time to complete network upgrades pursuant to C.F.R. § 54.101(c) (January 1, 2006), the applicant shall list the reasons why additional time is needed and the estimated length of time to complete the network upgrades[.]” Petitioner has not requested additional time.

¹⁰ Petition, p. 16-18.

¹¹ Petition, p. 8.

¹² Petition, p. 10-11.

consumer protection and service quality standards. Petitioner has demonstrated that it will satisfy this rule.¹³

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 in 2012.¹⁴ Therefore, the Commission finds Petitioner need not submit a local usage plan.

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 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.

In order to designate an applicant as an ETC, the Commission must determine whether such designation is in the public interest pursuant to ARSD 20:10:32:43.07. After evaluating the public interest considerations, the Commission finds that the designation of Gen Mobile will bring the benefits of increased consumer choice with the offering of a zero-cost option for Lifeline customers and it has committed to providing quality services to the designated service area. The Commission finds the designation of Gen Mobile as a Lifeline-only ETC is in the public interest.

ARSD 20:10:32:43.07 requires the Commission to conduct a creamskimming analysis if an applicant seeks designation in the study area of a rural telephone company. The FCC has stated that creamskimming is not a relevant concern regarding the designation of a Lifeline-only ETC.¹⁵ Therefore, the Commission finds that a creamskimming analysis is not required.

Pursuant to 47 C.F.R. § 54.201(h), a state commission may not designate a Lifeline-only ETC “unless the carrier seeking such designation has demonstrated that it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E of this part.” The Petition and Responses to Staff Data Requests provided financial and technical information about Petitioner. The Commission finds that Gen Mobile has demonstrated it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E.

It is therefore

ORDERED, that the request for approval of Joint Stipulation is hereby granted. It is further

ORDERED, that Gen Mobile is hereby designated as an Eligible Telecommunications Carrier in nonrural areas in South Dakota for the purpose of receiving federal low-income universal service support for prepaid wireless Lifeline services. It is further

ORDERED, that this Eligible Telecommunications Carrier designation shall be conditioned upon those representations and commitments made by Petitioner both orally on the record and in writing in this docket.

¹³ Staff Memorandum, p. 6.

¹⁴ 47 C.F.R. § 54.202 (2012).

¹⁵ *In the Matter of Telecommunications Carriers Eligible for Support, Lifeline and Link Up Reform*, Memorandum Opinion and Order, WC Docket No. 11-42, FCC 13-44, ¶ 13.

Dated at Pierre, South Dakota, this 5th day of June 2025.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.

By: Kristie Fiegen

Date: 5 June 2025

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Chris Nelson
CHRIS NELSON, Commissioner

Kristie Fiegen
KRISTIE FIEGEN, Commissioner