



funding from other universal service programs do not apply to, or are incapable of being applied to, Lifeline-only ETCs.

The Federal Communications Commission (“FCC”) has issued orders granting Lifeline-only ETCs “forbearance” from two separate ETC requirements: the requirement that an ETC must offer services “using its own facilities or a combination of its own facilities and resale of another carrier’s services”;<sup>2</sup> and the requirement that an ETC’s service area must conform to the service area of any rural telephone company serving the same area.<sup>3</sup>

The FCC has long recognized that entities within a corporate family that enjoy the “beneficial use” of property may consider that property their own for purposes of ETC designation.<sup>4</sup> The FCC first granted forbearance from the “own facilities” requirement in 2005.<sup>5</sup> A few years later, the FCC designated Assurance Wireless’s predecessor, Virgin Mobile, as a Lifeline-only ETC in five states.<sup>6</sup> In 2010, the FCC designated Virgin Mobile as an ETC in four additional states and the District of Columbia.<sup>7</sup> As it did so, the FCC determined that because of its then-recent purchase by Sprint Nextel, Virgin Mobile operated as a facilities-based carrier for purposes of ETC designation.<sup>8</sup> Specifically, the FCC stated that Virgin Mobile “no longer needs forbearance” from the “own facilities” requirement, because Virgin Mobile “owns” Sprint Nextel’s facilities.<sup>9</sup> Thereafter, Virgin Mobile was designated by the state commissions of Minnesota and many other states as a facilities-based Lifeline-only ETC.<sup>10</sup> Assurance Wireless was one of the brands under which Virgin Mobile provided service. In 2020, Assurance Wireless became part of T-Mobile. Therefore, Assurance Wireless provides service in South Dakota (and

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<sup>2</sup> See 47 U.S.C. § 214(e)(1)(A).

<sup>3</sup> See 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b).

<sup>4</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 97-157 at ¶ 158 (“*First Report and Order*”).

<sup>5</sup> See *Federal-State Joint Board on Universal Service; 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*, FCC 05-165 (rel. Sept. 8, 2005) (“*2005 TracFone Order*”).

<sup>6</sup> See *Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P., Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, North Carolina, Pennsylvania, Tennessee, and Virginia*, CC Docket No. 96-45, *Order*, FCC 09-18 (rel. March 5, 2009).

<sup>7</sup> See *Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P., Petitions for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, New Hampshire, and Washington D.C.*, WC Docket No. 09-197, *Order*, DA 10-2433 (rel. Dec. 29, 2010) (“*2010 Order*”).

<sup>8</sup> *2010 Order* at ¶ 15.

<sup>9</sup> *Id.*

<sup>10</sup> See, e.g., *In the Matter of the Petition of Virgin Mobile USA, L.P. for Designation as an Eligible Telecommunications Carrier*, Docket No. P-6863/M-11-314, *Order Granting Limited ETC Designation* (rel. Dec. 7, 2012) (“*Minnesota Virgin Mobile Order*”) at 3 (“Virgin Mobile has not requested forbearance from the facilities ownership requirement because it was acquired by Sprint Nextel and therefore has the benefit of Sprint’s wireless facilities.”).

the other states where it operates) using its “own facilities” for purposes of ETC designation, because it is part of T-Mobile.<sup>11</sup>

The FCC first granted Lifeline-only ETCs forbearance from the “service area” requirement in 2013.<sup>12</sup> The FCC’s forbearance from applying the “service area” requirement extended to “future requests” to be designated as an ETC, and applied to ETCs being designated either by a state or the FCC.<sup>13</sup> Thus, it is not necessary for Assurance’s proposed Lifeline-only ETC service area in South Dakota to conform to the service area or wire center of any other South Dakota carrier.

Assurance Wireless notes that some of Staff’s Data Requests seek information not relevant to the provision of Lifeline service, or are based on South Dakota Administrative Rules that are not capable of being applied in the Lifeline context. The Commission has the authority to conclude that some of its rules, especially those rules relating to the public interest, need not be applied.<sup>14</sup> Consistent with this principle, the Commission has previously waived ETC designation requirements that were not pertinent to the applicant.<sup>15</sup>

### **Assurance Wireless’s Responses to Staff’s Data Requests**

1-1. Refer to Exhibit 1 – Certification, confirm Assurance is seeking designation in South Dakota and not North Dakota or Nebraska. File a revised Exhibit 1 correcting the state.

Response: Confirmed: in this proceeding, Assurance Wireless is seeking ETC designation in South Dakota, not in another state. A revised Exhibit 1 – Certification is being filed herewith.

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<sup>11</sup> *First Report and Order* at ¶ 158.

<sup>12</sup> *See In the Matter of Telecommunications Carriers Eligible for Support, Lifeline and Link Up Reform*, WC Docket Nos. 09-197 and 11-42, Memorandum Opinion and Order, FCC 13-44 (rel. April 15, 2013) (“*Service Area Forbearance Order*”).

<sup>13</sup> *Service Area Forbearance Order* ¶ 1.

<sup>14</sup> *See, e.g., Interstate Tel. Co-op., Inc. v. Pub. Utils. Comm’n of S.D.*, 518 N.W.2d 749, 752 (“An agency’s view of what is in the public interest may change, either with or without a change in circumstances.”).

<sup>15</sup> *See, e.g., In re Alliance Comm’ns Cooperative, Inc. Application for Expanded Designation as an Eligible Telecommunications Carrier*, Docket No. TC21-010, *Order Granting Expanded Eligible Telecommunications Carrier Designation in Certain Census Blocks; Order Granting Waiver*, 2021 WL 2074086 (rel. May 19, 2021) at \*2 (waiving two-year buildout plan requirement because purpose of ETC designation was to participate in RDOF program).

1-2. Provide a map, by wire center, of the area Assurance is requesting to serve.

Response: Assurance Wireless requests designation as an ETC in South Dakota in a service area that is equivalent to its current wireless coverage area in South Dakota (including as that coverage area may change going forward), but not in Tribal lands. Attachment 1, filed herewith, shows Assurance Wireless's coverage superimposed on a map of the wire centers within South Dakota. The colored areas shown on Attachment 1, denoting Assurance Wireless's coverage, are equivalent to its requested ETC service area.

1-3. Refer to Exhibit 8. Although a link is provided, provide a copy of Form 10-K of Assurance.

Response: Assurance Wireless is not a publicly traded company and therefore it does not have its own Form 10-K report. Rather, Assurance Wireless's finances roll up into T-Mobile. T-Mobile's 2023 10-K report is being filed herewith, marked as Attachment 2.

- 1-4. Provide a cream skimming analysis, similar to that found in Exhibit D in docket TC06-184, that compares the population density of each wire center in which the applicant seeks designation against the population density in the wire centers in the rural telephone company study area in which the applicant does not seek designation.

Objection: Assurance Wireless objects to Request 1-4 because the information requested is not relevant to the Commission's review of Assurance Wireless's Application. In the ETC context, "creamskimming" refers to the concern that a competitor will seek to serve only the low-cost, high-revenue customers in a rural telephone company's study area.<sup>16</sup> When competitive wireless carriers were first being designated as ETCs by the FCC and state commissions, a creamskimming analysis was undertaken as part of the public interest analysis, to make sure that the designation of the wireless carrier as an ETC in part of an incumbent rural carrier's service area would not undermine the incumbent's ability to serve the entire service area.<sup>17</sup>

A creamskimming analysis is neither necessary nor applicable in the context of Assurance Wireless's ETC application, for several reasons. First, Assurance Wireless only seeks ETC designation in South Dakota as a Lifeline-only ETC. As such, Assurance Wireless is not competing with the incumbent for "high-revenue" customers; rather, it is only serving low-income customers. Second, the FCC's *Service Area Forbearance Order* implicitly rendered the creamskimming analysis unnecessary as to Lifeline-only ETCs, because the amount of Lifeline support received by a Lifeline-only ETC has no connection to the cost of serving the area. Lifeline support is a fixed amount, provided only on a customer-specific basis. As the FCC said in the *Service Area Forbearance Order*, "Creamskimming is not a public-interest consideration in the Lifeline context, whether the competing carrier is offering wireless or wireline service."<sup>18</sup>

Response: Without waiving the foregoing objection, Assurance Wireless's requested designation as a Lifeline-only ETC in South Dakota does not present any risk of creamskimming.

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<sup>16</sup> See *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 03-338 (rel. Jan. 22, 2004), at ¶ 32 ("*Virginia Cellular Order*").

<sup>17</sup> See *Virginia Cellular Order* at ¶¶ 32-34; see also *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 05-46 (rel. Mar. 17, 2005) ("*2005 ETC Order*") at ¶¶ 48-53; see also *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A), Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, Pennsylvania, Virginia, North Carolina, and Tennessee*, CC Docket No. 96-45, *Order*, FCC 09-18, (rel. Mar. 5, 2009), fn. 101.

<sup>18</sup> *Service Area Forbearance Order* at ¶ 13.

1-5. Provide a chart showing all ACP discount amounts and all Lifeline discount amounts.

Objection: Assurance Wireless objects to this Data Request as not reasonably calculated to lead to the discovery of admissible evidence—the ACP program is exclusively within the FCC’s jurisdiction and the details of the ACP service and discounts are not relevant for purposes of Assurance’s Petition.

Response: Without waiving the foregoing objection, please see the following table:

	<b>Broadband Service</b>	<b>Voice-only Service</b>
ACP Discount Amounts:	Up to \$30/month, plus a one-time discount of up to \$100 toward the purchase of a laptop, desktop computer, or tablet if the household contributes more than \$10 and less than \$50 toward the purchase price.	N/A
Lifeline Discount Amounts:	Up to \$9.25/month for qualifying monthly broadband or bundled services that meet the broadband minimum standards	Up to \$5.25/month

Additional details are available at <https://www.usac.org/lifeline/rules-and-requirements/minimum-service-standards/>. The Lifeline Program provides larger discounts for service provided on Tribal lands. But those discount amounts are not relevant to Assurance Wireless’s proposed ETC designation in South Dakota because Assurance does not seek to be designated to serve Tribal lands in South Dakota.

1-6. Do any unused minutes and data in a given month roll over to the following months?

Response: In Assurance Wireless’ Lifeline service offering, neither unused minutes nor unused data roll over to subsequent months.

1-7. Has the FCC provided any sort of confirmation that Assurance can be considered a facilities-based provider even though it is not directly owning the facilities in use?

Response: Yes—see the Introductory Statement, particularly the fifth paragraph thereof.

1-8. Refer to page 7 of the Petition, what does Assurance consider as “appropriate media outlets”?

Response: The FCC’s rule relating to the advertisement of Lifeline service is 47 C.F.R. § 54.405(b). The FCC has issued guidance interpreting this rule, which is summarized at <https://www.usac.org/lifeline/rules-and-requirements/advertise-lifeline/>. The FCC’s rule and guidance are a starting point for identifying “appropriate media outlets.”

There are numerous media outlets, including but not limited to digital marketing (paid search, social media, online video, etc. distributed through third-party platforms) television, radio, printed materials, and email, that could appropriately be used for advertisement of Lifeline service. The media used for advertising may vary, depending on the market, the target customers, the available media options, and the cost of the media. The majority of Assurance Wireless’s nationwide marketing efforts are focused on its website, social media, internet advertising, and email. Assurance Wireless also plans to advertise that it offers Lifeline in South Dakota using methods specifically targeted at consumers who would likely qualify for Lifeline, such as community centers and government offices. New prospects are directed to Assurance Wireless’s website for information about our services, instructions to assist applicants with understanding eligibility criteria, the application process, and the benefits of Lifeline service.

1-9. Is Assurance planning to do targeted advertising to the current ACP customers of Assurance?

Objection: Assurance Wireless objects to this Data Request as not reasonably calculated to lead to the discovery of admissible evidence—the ACP program is exclusively within the FCC’s jurisdiction.

Response: Without waiving the foregoing objection, yes. As required by the FCC, Assurance has provided notification to current ACP customers about the ACP program and will provide further notifications, including options if the ACP program ends. Upon designation by the Commission as a Lifeline-only ETC, Assurance will contact its current South Dakota ACP customers by text, remind them that the ACP program is winding down, and invite them to transfer to Assurance’s Lifeline plan.

1-10. How many ACP customers, in total and separately for South Dakota, does Assurance have?

Objection: Assurance Wireless objects to this Data Request as not reasonably calculated to lead to the discovery of admissible evidence—the ACP program is exclusively within the FCC’s jurisdiction and the number of ACP customers served by Assurance in states other than South Dakota has no bearing in this proceeding.

Response: Without waiving the foregoing objection, see CONFIDENTIAL ATTACHMENT 3, which is submitted under separate cover subject to a request for confidential treatment pursuant to S.D. Admin. R. 20:10:1:41.

1-11. Refer to page 7 of the Petition, confirm Assurance does NOT wish to be granted ETC status for Lifeline purposes on any tribal lands in South Dakota.

Response: Confirmed.

1-12. If the Petition were to be granted, is William Haas the person the PUC should use to contact should there be any complaints, customer questions/concerns, or general PUC inquiries? If not, provide the same level of contact information, specifically direct lines of contact, as provided for Mr. Haas on page 3 of the Petition.

Response:

For general customer service inquiries, customers can contact:

Assurance Wireless customer service  
P.O. Box 5040  
Charleston, IL 61920-9907  
1-888-321-5880  
<https://www.assurancewireless.com/help-center/contact>

If the PUC seeks to contact Assurance Wireless about a consumer complaint, please contact:

Executive Response Team  
Assurance Wireless  
1201 Menaul Blvd NE  
Albuquerque NM 87107  
[Eliana.Lugo@T-Mobile.com](mailto:Eliana.Lugo@T-Mobile.com)

For regulatory/legal inquiries, please contact Mr. Haas.

For Form 555 reports, please contact Lyndsey Mitchell at

[Lyndsey.Mitchell69@T-Mobile.com](mailto:Lyndsey.Mitchell69@T-Mobile.com)  
6160 Sprint Parkway  
Overland Park KS 66251  
913-315-5049

1-13. Explain why Assurance will only guarantee 3G speeds for internet and not 4G or the 5G products mentioned on page 3.

Objection: Assurance Wireless objects to this Data Request as vague, ambiguous, not reasonably calculated to lead to the discovery of admissible evidence, and so unintelligible that Assurance Wireless cannot tell the nature of the data sought. Specifically, Assurance Wireless's Petition does not say anything about guaranteeing, or refusing to guarantee, download or upload speed, and as a result, Assurance Wireless does not know what this Data Request is referring to.



Response: Without waiving the foregoing objection, Assurance Wireless will ensure that the data speed provided in its Lifeline service offerings complies with the minimum service standards specified for Lifeline service. The required upload and download speeds are modified from time to time, but at present the minimum service standard for mobile broadband Lifeline service is 4.5GB/per month. Assurance Wireless’s proposed Lifeline service offering in South Dakota meets this standard. See also Response to Requests 1-14 and 1-19.

1-14. What mobile broadband speed will Lifeline plans provide?

Response: See response to Request 1-13. The broadband speed experienced by an Assurance Wireless customer depends on their location, the network facilities providing service to that location at a specific time, and the cellular phone model used by the consumer. For example, a phone that is not 5G-compatible will not experience 5G speed even if the consumer is in a location served by T-Mobile’s 5G network. For typical speeds, see <https://www.assurancewireless.com/legal/net-neutrality>.

1-15. Refer to page 9, provide a copy of the procedure used to verify customers which show the “specific verification steps in place to prevent consumer fraud”.

Response: All Assurance Wireless acquisition methods are subject to the following verification steps to prevent consumer fraud:

- Duplicate check logic that uses Consumer Personally Identifying Information (Name, DOB, last four digits of SSN, address) to identify potential matches in our own database to prevent intra-carrier duplicates.
- Standardize addresses through CASS<sup>19</sup> validation, verifying that addresses are valid and complete.

In addition, Assurance Wireless maintains a suspicious document repository, which is referenced to identify potential patterns indicative of consumer fraud.

In addition, when service is being set up through marketing agents, Assurance Wireless requires the applicant to provide proof of identity, which is screened prior to submission to the National Lifeline Accountability Database (“NLAD”). See <https://www.usac.org/lifeline/national-lifeline-accountability-database-nlad/> for additional information about the NLAD.

The National Verifier check<sup>20</sup> and the ability to enroll/transfer a customer into NLAD are ultimately the determining factors of a consumer’s eligibility, but Assurance Wireless performs the above-mentioned additional validations prior to sending consumer information to NLAD to provide an additional layer of protection against waste, fraud and abuse.

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<sup>19</sup> CASS stands for Coding Accuracy Support System. It is a process developed in conjunction with the United States Postal Service to standardize and validate addresses.

<sup>20</sup> See <https://www.usac.org/lifeline/national-verifier/>.

Finally, it should be noted that since 2016, the FCC has instituted various other rules to minimize the risk of consumer fraud in the Lifeline program, including requiring that all Lifeline providers undergo biennial audits; requiring the use of uniform Lifeline forms; and requiring ETCs to make annual Lifeline compliance certifications to the FCC.<sup>21</sup>

1-16. Has Assurance, or any other names Assurance has operated under or companies Assurance been owned by, been penalized for any sort of waste, fraud, or abuse of the Lifeline program?

Response: Assurance Wireless has never been penalized for “any sort of waste, fraud, or abuse of the Lifeline program.” Certain regulatory issues formally raised by the FCC were resolved via a 2020 Consent Decree and Amendment, which expressly did not constitute an adjudication on the merits or a factual or legal determination regarding compliance. Questions raised by California and Oregon regulators relating to aspects of the same underlying issue were similarly resolved by mutual agreement, with no finding or admission of violation. No government entity found “waste, fraud, or abuse.”

1-17. Refer to page 10 of the Petition, Assurance states “initially, the Company will offer no-cost prepaid wireless service to low-income consumers, thereby increasing consumer choice and increasing the public’s access to telephone and broadband services through the availability of a new ETC designee in South Dakota.”

- a) How long will the plans be free of charge?
- b) What will the price of plans be after this “initial” free time?
- c) What plans will be offered after this “initial” period is over?
- d) Will any plans be free after the “initial” period is over?
- e) How will customers be informed of this “initial” free plan going away?

Response: Assurance Wireless’s provision of Lifeline in South Dakota will be free of charge to eligible wireless consumers. It is possible that at some point Assurance Wireless will modify its pricing or aspects of its Lifeline service offering in South Dakota.

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<sup>21</sup> 47 C.F.R § 54.420 (biennial audits); 47 C.F.R. § 54.410(d) (Lifeline eligibility forms); 47 C.F.R. § 54.422 (annual reporting).

1-18. Will all local, 911, E911, and customer service calls be free and not count against minutes used?

Response: Yes.

1-19. Provide the minimum broadband and voice requirements for Lifeline from the FCC.

Response: See 47 C.F.R. § 54.408(b)-(c) and <https://docs.fcc.gov/public/attachments/DA-23-621A1.pdf>.

1-20. South Dakota already has a Lifeline Only wireless ETC that utilizes the T-Mobile network and multiple others Petitioning to become an ETC utilizing the T-Mobile network. Explain, in detail, how your product will be different from the one those companies are offering.

Objection: Assurance Wireless objects to Request 1-20 because the information requested is not relevant to the Commission's review of Assurance Wireless's Application. There is no legal requirement that an ETC's service offering be different from the service offerings provided by other ETCs or potential ETCs. Assurance Wireless further objects on the basis that this Request seeks information that is not within Assurance Wireless's possession or knowledge—Assurance Wireless does not have information, other than what can be gleaned from public sources, about other carriers' service offerings in South Dakota.

Response: Without waiving the foregoing objection, regardless of the details of other ETCs' or potential ETCs' service offerings, Assurance Wireless believes its overall provision of Lifeline service will be different from that of its South Dakota competitors in many respects, such as T-Mobile's award-winning customer service.<sup>22</sup> Additionally, South Dakota residents will have the ability to obtain Lifeline directly from Assurance Wireless, which is an experienced and well-established Lifeline provider operating in 40 jurisdictions.

1-21. Does Assurance differentiate between local and long distance calls?

Response: No. Specifically, there is no extra charge to Assurance Wireless's Lifeline consumers if their free minutes are used for long-distance domestic calls.

1-22. Confirm Assurance will agree to cooperate with the South Dakota Public Utilities Commission to resolve consumer complaints.

Response: Confirmed.

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<sup>22</sup> See <https://www.t-mobile.com/news/un-carrier/j-d-power-awards-t-mobile-and-metro-by-t-mobile-top-spots-in-customer-care>.

1-23. Explain how Assurance handles consumer complaints and the process used by the company.

Response: Assurance Wireless customers can raise their concerns to the company first by calling Customer Care (1-800-321-5880) and working with a representative to discuss their concern and work through a resolution. If the customer's concern cannot be addressed to the customer's satisfaction through calls to Customer Care, the customer may continue to seek a resolution to their concerns by sending a written Notice of Dispute to Assurance, as set out in Assurance Wireless' Terms and Conditions (<https://www.assurancewireless.com/legal/terms-and-conditions>). Once that Notice of Dispute is received, a designated representative will be assigned to work with the complaining customer to try to resolve their dispute. If the dispute cannot be resolved within 45 days, despite good faith efforts by the customer to work with Assurance Wireless on a resolution, the customer may initiate a claim. More information about this process is available to customers on Assurance Wireless' website.

1-24. Provide updated financials for 2023.

Response: See response to Request 1-3.

1-25. If a customer uses their data allotment, are they cut off from using more before purchasing more data? Or do they continue to use data and then receive a bill at the end of the period?

Response: Assurance Wireless automatically sends an SMS to the customer once they reach 80% of the allotted monthly data usage so that the customer can decide between purchasing a data add on, or curtailing data usage for the remainder of the month. In addition, Assurance Wireless automatically sends an SMS to the customer when they have reached 100% of the data cap, advising the customer that data service is cut off until the next cycle or they purchase a data add-on.

1-26. How much is additional voice and data for a Lifeline customer?

Response: As of February 6, 2024, the pricing is as follows:

Add-On Description	
Paid - Voice/Data	\$5 - 250 Mins
	\$15 - Unl Min/500MB
	\$20 - Unl Mins/1GB
	\$30 - Unl Mins/4GB
	\$45 - Unl Mins 10GB
Paid - Data	\$1 - 100MB AddOn
	\$3 - 500MB AddOn
	\$5 - 1GB AddOn
	\$10 - 2GB AddOn
	\$20 - 4GB AddOn
	\$30 - 5GB AddOn

Additional details are set forth at <https://www.assurancewireless.com/help-center/data-and-services>.

1-27. What percent of Assurance’s current subscribers purchase additional voice or data?

Response: See CONFIDENTIAL ATTACHMENT 4, which is submitted under separate cover subject to a request for confidential treatment pursuant to S.D. Admin. R. 20:10:1:41.

1-28. Provide the number of Lifeline customers Assurance has in each state it offers service in. Separate out by Tribal and non-Tribal customers.

Objection: Assurance Wireless objects to Request 1-28 because the information requested is not relevant to the Commission’s review of Assurance Wireless’s Application. ETC designation in South Dakota is not predicated on having a specific number of Lifeline customers in other states.

Response: Without waiving the foregoing objection, please see Assurance Wireless’ Form 555s as filed with the FCC.

1-29. Provide the number of non-Lifeline customers Assurance has in each state it offers service in.

Response: Other than customers participating in the ACP, which will soon be discontinued, Assurance Wireless does not have non-Lifeline customers.

1-30. Provide a description of the plans, including details and pricing, for non-Lifeline customers in South Dakota. Are all the Lifeline plans available to non-Lifeline subscribers without the Lifeline discount? Can a customer have the Lifeline discount applied to a more expensive plan?

Response: See response to Request 1-29. Assurance Wireless does not offer non-Lifeline plans (other than its ACP service offering) in South Dakota, or anywhere else.

1-31. Provide a detailed list of all Lifeline Eligible plans Assurance plans to offer. The list should include, but not be limited to, minutes, data, price, roll over data or minutes option, etc.

Response: In South Dakota, Assurance Wireless will offer one Lifeline plan:

<b>Network- Compatible Phone</b>	<b>Voice Minutes</b>	<b>Text</b>	<b>Data</b>	<b>Federal Lifeline Subsidy</b>	<b>Cost to Consumer</b>
Free	1000	Unlimited	4.5 GB	\$9.25	Free

The underlying terms and conditions are available at: <https://www.assurancewireless.com/legal/terms-and-conditions>.

1-32. For each of Assurance’s Lifeline offerings in South Dakota, provide a breakdown of Assurance’s fixed cost and variable cost to serve a single Lifeline subscriber.

Objection: Assurance Wireless objects to Request 1-32 as vague, ambiguous, and so unintelligible that Assurance Wireless cannot tell the nature of the data sought. It is not clear what is meant by the fixed cost or the variable cost to serve an individual consumer. Assurance Wireless further objects to Request 1-32 because the information requested is not relevant to the Commission’s review of Assurance Wireless’s Application. There is no legal requirement that an ETC provide information about its cost to provide service. Assurance Wireless also objects to Request 1-32 as outside the scope of the Commission’s jurisdiction. By filing its Application, Assurance is submitting—but only as far as is necessary for ETC designation—to the Commission’s jurisdiction. However, State Commissions do not have jurisdiction to regulate the finances of wireless carriers. *See* 47 U.S.C. § 332(c)(3)(A); *Cellco P’ship v. Hatch*, 431 F.3d 1077 (8th Cir. 2005) (describing Section 332 preemption).

Response: Without waiving the foregoing objection, Assurance Wireless does not maintain information from which this request can be answered.

1-33. Confirm Assurance will not charge a number-portability fee on its Lifeline plans.

Response: Confirmed.

1-34. Confirm Assurance will not any service deposits on any of its Lifeline plans.

Response: Confirmed—Assurance Wireless does not charge service deposits on its Lifeline plans.

1-35. Are there any locations in Assurance’s proposed service area that do not currently have a wireless Lifeline offering available to them? Are there any locations that do not have a prepaid wireless Lifeline offering available to them?

Objection: Assurance Wireless objects to Request 1-35 on the basis that this Request seeks information that is not within Assurance’s possession or knowledge—Assurance Wireless has no information, other than what can be gleaned from public sources, about the geographic availability in South Dakota of other carriers’ Lifeline service offerings. Assurance Wireless further objects to this Request because the information requested is not relevant to the Commission’s review of Assurance Wireless’s Application. There is no legal basis for the idea that the designation of a carrier as an ETC in its proposed service area is dependent in some way on whether other wireless carriers provide Lifeline service in that area.

Response: Without waiving the foregoing objection, Assurance Wireless has no information with which to respond.

1-36. Provide the details and pricing (including handset costs) of any prepaid Lifeline offerings by the wireless providers currently serving Assurance’s proposed service area.

Objection: Assurance Wireless objects to Request 1-36 on the basis that this Request seeks information that is not within Assurance’s possession or knowledge—Assurance Wireless has no information about the pricing of other carriers’ prepaid Lifeline service offerings in South Dakota. Assurance Wireless further objects to this Request because the information requested is not relevant to the Commission’s review of Assurance Wireless’s Application. There is no legal basis for the idea that the designation of a carrier as an ETC in its proposed service area is dependent in some way on the pricing of other wireless carriers’ Lifeline service offerings in that area.

Response: Without waiving the foregoing objection, Assurance Wireless has no information with which to respond.

1-37. Provide the details and pricing (including handset costs) of any postpaid Lifeline offerings by the wireless providers currently serving Assurance’s proposed service area.

Objection: Assurance Wireless objects to Request 1-37 on the basis that this Request seeks information that is not within Assurance Wireless’s possession or knowledge—Assurance Wireless has no information about the pricing of other carriers’ postpaid Lifeline service offerings in South Dakota. Assurance Wireless further objects to this Request because the information requested is not relevant to the Commission’s review of Assurance Wireless’s Application. There

is no legal basis for the idea that the designation of a carrier as an ETC in its proposed service area is dependent in some way on the pricing of other wireless carriers' Lifeline service offerings in that area.

Response: Without waiving the foregoing objection, Assurance Wireless has no information with which to respond.

1-38. Will Assurance use Marketing Agents to enroll customers? If so, does Assurance compensate Marketing Agents based on enrollments? What procedures does Assurance have in place to assure its Marketing Agents do not misuse beneficiary data?

Objection: Assurance Wireless objects to this Data Request as not reasonably calculated to lead to the discovery of admissible evidence—its procedures for compensating third-party agents are governed by federal regulations and are not relevant for purposes of Assurance's Petition.

Response: Without waiving the foregoing objection, yes, Assurance Wireless will use third-party agents to market its services. Assurance Wireless does not offer any commissions directly to individual third-party agents, but it does employ a carefully designed system to incentivize the entities that it contracts with to help customers understand Lifeline program requirements and successfully navigate the Lifeline application process. Assurance Wireless has a rigorous review process to ensure that beneficiary data is not misused. Specifically, the third-party agents use a mobile app that does not store personal data. The consumer enters their personal data into the app, but the personal data is not visible to the agent—it is replaced by asterisks as it is entered. If it is necessary to take a photograph for documentation purposes, the photo is stored within the app and is not accessible to the third-party agent from the agent's device. When each consumer session is complete, the app resets.

1-39. Are the "terms and conditions" mentioned on page 6 of the Petition provided to the potential customer prior to enrollment?

Response: The terms and conditions set forth at <https://www.assurancewireless.com/legal/terms-and-conditions> are available to potential customers online. Because much of Assurance Wireless' service, including initial enrollment, is done online or by telephone, this is the most efficient and user-friendly way to provide this information to potential customers. In addition, when consumers purchase service through third-party agents, the process requires the consumer to agree to the terms and conditions, with a link to the terms and conditions webpage mentioned above.

1-40. Is there a fee or penalty assessed by Assurance for a customer to cancel or de-enroll for any reason at any time?

Response: Assurance Wireless does not charge a cancellation or de-enrollment fee or penalty.



1-41. What was the breakdown of Lifeline revenue versus non-Lifeline revenue in 2022 and 2023?

Objection: Assurance Wireless objects to Request 1-41 because the information requested is not relevant to the Commission’s review of Assurance Wireless’s Application. There is no legal requirement that a carrier provide information about its revenues to be designated as an ETC. Assurance Wireless also objects to Request 1-41 as outside the scope of the Commission’s jurisdiction. By filing its Application, Assurance Wireless is submitting—but only as far as is necessary for ETC designation—to the Commission’s jurisdiction. However, State Commissions do not have jurisdiction to regulate the finances of wireless carriers. *See* 47 U.S.C. § 332(c)(3)(A); *Cellco P’ship v. Hatch*, 431 F.3d 1077 (8th Cir. 2005) (describing Section 332 preemption).

Response: Without waiving the foregoing objection, Assurance Wireless does not offer “non-Lifeline” service (other than its ACP service offering).

1-42. Provide a copy of all media sources used in the advertising of Assurance’s services and charges, including point of sale materials, customer direct mail, customer brochures, and print media.

Objection: Assurance Wireless objects to Request 1-42 because this request is overbroad and unduly burdensome—it is not feasible to provide a copy of “all” the advertising and marketing material used by Assurance Wireless.

Response: Without waiving the foregoing objection, Assurance references the materials previously provided in Exhibit 2 to its Petition. New marketing materials for South Dakota Lifeline service are under development but not yet finalized. Recent Assurance Wireless advertising in South Dakota has exclusively focused on its ACP offering, which is not relevant. See also response to Request 1-8.

1-43. Does Assurance anticipate geographic areas in South Dakota wherein customers may experience service issues due to inadequate coverage by the companies you have contracted with or intend to contract with? If so, what is the process and procedure for handling customer service issues after signing the individual up for services?

Response: As explained herein, Assurance Wireless’s provision of Lifeline service in South Dakota is not predicated on “contracting with” third-party carriers. The T-Mobile network provides extensive coverage in South Dakota, as shown on Attachment 1 and also at <https://www.t-mobile.com/coverage/coverage-map>. Assurance Wireless does not have any specific expectation regarding adequacy of coverage at a given customer location. The customer experience can be affected by a variety of factors, such as interference, obstruction, weather, network congestion, and distance from a cell tower; many of these factors are not knowable when a customer requests service. Assurance Wireless does not anticipate that there will be many situations where a customer experiences inadequate coverage, but if such situations occur, the customer can contact

Assurance Wireless's customer service to discuss various options, including changing handsets or using a cellspot, hot spot, or similar coverage booster. If the customer feels coverage is inadequate for their needs, they can discontinue service from Assurance Wireless at no cost.

1-44. Do you intend to make potential customers aware of potential coverage issues prior to enrolling customer?

Response: T-Mobile's coverage (and therefore Assurance Wireless's coverage) in South Dakota is easily accessible to potential customers at <https://www.t-mobile.com/coverage/coverage-map>. That online coverage information is the best way to provide this information to customers. Also, it can readily be provided to potential customers.

1-45. Will Assurance provide a device to all new customers? Is there an additional charge for a device?

Response: New customers can bring their own device. But if they do not have one, Assurance Wireless's Lifeline service offering, for all new customers, includes a free network-compatible phone.

1-46. If Assurance provides customers with a device, is the device new or refurbished?

Response: All of the phones provided by Assurance Wireless are new.

1-47. If refurbished, has Assurance had any quality issues with its refurbished handsets compared to new handsets? Confirm that Assurance will not misrepresent refurbished phones as new phones in advertisements and when signing new customers up for service.

Response: Not applicable; see response to Request 1-46.

1-48. What types of handsets are free?

Response: A list of the models of phones available to Assurance Wireless's Lifeline subscribers is available at <https://www.assurancewireless.com/help-center/phone-guides>.

1-49. Is there an option to get an upgraded handset? If so, what are the fees for an upgraded handset and what are the options?

Response: Yes, an Assurance Wireless Lifeline subscriber can get an upgraded handset from another provider and use it with Assurance Wireless's Lifeline service. The only handsets Assurance Wireless offers are the ones listed at <https://www.assurancewireless.com/help-center/phone-guides>.

1-50. Does Assurance have any direct control over its underlying carrier? If not, how will Assurance ensure the ability to remain functional in emergency situations?

Response: As explained herein, Assurance Wireless is part of T-Mobile and has the beneficial use of T-Mobile's network. Accordingly, this Request's assumptions that Assurance Wireless has an "underlying carrier" or needs "control" over that carrier are incorrect. T-Mobile has a robust set of internal programs, policies, teams, and facilities in place to ensure functionality in emergency situations. Its network is monitored 24 hours a day, seven days a week, 365 days a year by network monitoring centers.

Detailed information about the ability of T-Mobile (including Assurance Wireless) to remain functional in emergency situations is provided in T-Mobile's Business Continuity Program Summary, attached as Exhibit 5 to Assurance Wireless's Application. Additional information about T-Mobile's ability to remain functional in emergency situations is available at <https://www.t-mobile.com/responsibility/community/emergency>.

1-51. Explain how Assurance complies with ARSD 20:10:32:43.05 in offering a local usage plan comparable to the one offered by the incumbent local exchange carrier in the service area in which Assurance seeks designation. Provide the analysis done to compare the plans.

Objection: Assurance Wireless objects to Request 1-51 because the information requested is not relevant to the Commission's review of Assurance Wireless's Application. The comparable local usage requirement is obsolete. Specifically, in 2012, as it reformed and modernized the Lifeline program, the FCC rewrote its regulation at 47 C.F.R. § 54.202 to remove the comparable local usage requirement.<sup>23</sup>

Response: Without waiving the foregoing objection, the typical voice service offering provided by an incumbent local exchange carrier includes unlimited voice calling, but does not include texting or data service, and is only available at a fixed location. The price for this service is typically \$15 - \$40/month. In contrast, Assurance Wireless's Lifeline service offering includes an ample amount of voice service, unlimited texting, broadband data service, and is mobile.

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<sup>23</sup> See *Lifeline Modernization Order* at ¶¶ 46-49 and Subpart C (revising 47 C.F.R. § 54.202); compare 47 C.F.R. § 54.202 (2011) (54.202(a)(4) required all ETC applicants to demonstrate that they offer a comparable local usage plan) to 47 C.F.R. § 54.202 (2013) (comparable local usage requirement no longer present).

Assurance Wireless's Lifeline service is provided at no cost to the consumer. Assurance Wireless's Lifeline service offering is thus comparable to, or superior to, the service offerings provided by the incumbent local exchange carriers in the area where Assurance seeks designation.

1-52. Refer to ARSD 20:10:32:43(4), provide "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)".

Response: Assurance Wireless's Application meets this requirement. It walks through the applicable requirements for the Lifeline-only ETC designation that Assurance Wireless seeks and explains how Assurance Wireless meets each requirement.

1-53. Refer to ARSD 20:10:32:43(5), does Assurance need any additional time to complete network upgrades? If yes, provide the information required under this rule.

Objection: Assurance Wireless objects to Request 1-53 because the information requested is not relevant to the Commission's review of Assurance Wireless's Application. The network upgrade requirement in ARSD 20:10:32:45(5) is obsolete. ARSD 20:10:32:45(5) refers to 47 C.F.R. § 54.101(c) (2006), which allowed ETC applicants to describe if they needed additional time to upgrade their network to provide "single-party service, access to enhanced 911 service, or toll limitation." The current version of 47 C.F.R. § 54.101(c) does not say anything about this additional time option, because all telecommunications carriers provide single-party service and are required to provide enhanced 911 service, and because toll limitation is no longer needed as nearly all telecommunications carriers no longer charge extra for long-distance calling.

Response: Without waiving the foregoing objection, Assurance Wireless does not need any additional time to complete the type of upgrades referred to in ARSD 20:10:32:43(5) and 47 C.F.R. § 54.101(c) (2006).

1-54. Provide the information as required in ARSD 20:10:32:43.01.

Objection: Assurance Wireless objects to Request 1-54 because the information requested is not relevant to the Commission's review of Assurance Wireless's Application. The concept of providing service to all consumers making a reasonable request, as set forth in ARSD 20:10:32:43.01, is only capable of being applied in the context of ETCs that receive high-cost support (i.e., funds that are intended to be used, in part, to build out coverage or capacity).

Response: Without waiving the foregoing objection, notwithstanding the inapplicability of ARSD 20:10:32:43.01 to Assurance Wireless's provision of Lifeline service, Assurance Wireless stated in its Application that it will provide service on a timely basis to all consumers making a reasonable request for service where wireless coverage is available.

1-55. Provide the information as required in ARSD 20:10:32:43.02.

Objection: Assurance Wireless objects to Request 1-55 because the information requested is not relevant to the Commission’s review of Assurance Wireless’s Application. The concept of submitting a two-year buildout plan, as set forth in ARSD 20:10:32:43.02, is only capable of being applied in the context of ETCs that receive high-cost support (i.e., funds that are intended to be used, in part, to build out coverage or capacity). This is made clear from the text of ARSD 20:10:32:43.02(1) and (2), which refer to the “receipt of high-cost support” and projects “funded by high-cost support.” Lifeline-only ETCs do not receive high-cost support, and therefore they do not receive USF for the purpose of investing in or maintaining telecommunications infrastructure. Rather, Lifeline USF is used only to reimburse the ETC for its provision of discounted Lifeline service. *See* 47 C.F.R. § 54.407.

Response: Without waiving the foregoing objection, as a Lifeline-only ETC, Assurance Wireless will not receive USF that is intended for the use of improvements or upgrades to its network.

1-56. Provide the information as required in ARSD 20:10:32:43.06.

Objection: Assurance Wireless objects to Request 1-56 because the information requested is not relevant to the Commission’s review of Assurance Wireless’s Application. The concept of “equal access to long distance carriers,” as set forth in ARSD 20:10:32:43.06, is not a concern now that (a) nearly all telecommunications carriers do not differentiate long-distance calling from local calling and (b) nearly all voice service does not require the customer to choose or rely on a single long-distance carrier. In 2012 the FCC rewrote its regulation at 47 C.F.R. § 54.202 to remove the equal access requirement.<sup>24</sup>

Response: Without waiving the foregoing objection, because the free voice minutes included in Assurance Wireless’s Lifeline service offering do not include an extra charge for long-distance service, and do not require the customer to choose or rely on a single long-distance carrier, Assurance Wireless’s Lifeline service offering complies with the spirit of ARSD 20:10:32:43.06.<sup>25</sup>

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<sup>24</sup> *See Lifeline Modernization Order* at ¶¶ 46-49 and Subpart C (revising 47 C.F.R. § 54.202); *compare* 47 C.F.R. § 54.202 (2011) (54.202(a)(5) required all ETC applicants to certify that the FCC could require them to provide equal access to long-distance carriers in the event that no other ETC did so) *to* 47 C.F.R. § 54.202 (2013) (equal access requirement no longer present).

<sup>25</sup> *See In the Matter of the Application of LTD Broadband LLC for Designation as an Eligible Telecommunications Carrier for Purposes of Receiving Federal Universal Service Support*, Docket No. TC21-001, *Final Decision and Order Denying Application for Designation as an Eligible Telecommunications Carrier in Certain Census Blocks*, 2022 WL 874631 (rel. March 21, 2022), ¶ 58 (because ETC applicant provided unlimited voice calls in the United States for a fixed monthly price, the equal access requirement in ARSD 20:10:32:43:06 “does not apply.”).

1-57. Explain why Assurance did not want to offer Lifeline services in SD until the ACP program was started and now ending.

Response: It is not correct to say that Assurance Wireless “did not want” to offer Lifeline Service in South Dakota until the ACP program was ending. Over the past few years, since its 2020 merger with Sprint, T-Mobile has made significant investments in its network in South Dakota as part of its buildout of its network. As the ACP program was rolled out, as a response to the COVID-19 pandemic, Assurance Wireless decided to participate and offer ACP service in South Dakota. Assurance Wireless has now made the business decision to apply for authorization to provide Lifeline service in South Dakota.

1-58. Confirm Assurance will file copies with the SD PUC of all applicable FCC Forms and Reports annually if this docket is approved, including but not limited to Form 555 and Form 481.

Response: Assurance Wireless will file copies of applicable FCC forms or reports with the South Dakota Commission as required by law, including its Form 555 and Form 481.

1-59. Confirm Assurance will comply with all future certification and filing requirements as required in SD Administrative Rules and Codified Laws.

Response: Confirmed—Assurance Wireless will comply with all applicable certification and filing requirements set forth in South Dakota statutes and administrative rules. It should be noted that state certification of ETCs’ use of support only applies to ETCs receiving high-cost support. *See* 47 C.F.R. § 54.314(a).

1-60. Will Assurance have any physical offices located in South Dakota? If so, provide the locations of the offices.

Response: Assurance Wireless does not plan to have physical offices in South Dakota.

1-61. Does Assurance have any plans to utilize other underlying carriers in the future? If so, which carriers are being considered?

Response: No.

1-62. Has Assurance reached out to any of the Tribes to see if they wanted Assurance to provide them with Lifeline services?

Response: The FCC's Lifeline outreach requirements specify that when a Lifeline provider's service area includes Tribal Lands, the provider should engage in outreach to the applicable Tribe. There is no requirement that a Lifeline provider engage in outreach in areas outside its ETC-designated service area. That said, Assurance Wireless has been and is currently holding conversations with Tribes and is evaluating whether to eventually offer Lifeline in some or all Tribal lands in South Dakota. Assurance Wireless understands that if a decision is made to provide Lifeline in Tribal lands, it would be necessary to return to the Commission to seek expansion of its South Dakota ETC service area.

1-63. Explain how Assurance's affiliates networks remain functional without an external power source.

Response: See response to Request 1-50. T-Mobile has reasonable amounts of back-up power to ensure functionality without an external power source. For example, each cell site in the T-Mobile network is equipped with battery back-up power, and T-Mobile has numerous fuel-powered generators that can be deployed to allow indefinite operation without an external electric power source.

1-64. How long can the network remain functional without an external power source?

Response: See Response to Requests 1-50 and 1-63. If a cell site loses external electric power, it can run off a battery. After the battery back-up power is used up, a gasoline or diesel generator can be used to generate power for the cell site. T-Mobile has numerous such generators ready to deploy as needed in response to an outage or an emergency situation. Such generators can run indefinitely—as long as the generator is kept fueled.

1-65. Explain how Assurance's affiliates networks re-route traffic around damaged facilities.

Response: See response to Request 1-50. T-Mobile has implemented practices to reroute traffic around damaged facilities and manage traffic spikes. For example, many of its cell sites provide overlapping coverage for neighboring areas, and in the event of a major failure of a cell site, neighboring sites could be adjusted to provide coverage to a wider coverage area.

1-66. Explain how Assurance's affiliates networks manage traffic spikes resulting from emergency situations.

Response: See response to Requests 1-50 and 1-65.

## VERIFICATION

I, Robert Stanchina, am Senior Director for Assurance Wireless USA, L.P. (“Assurance”) and I hereby state that the facts set forth in the foregoing responses of Assurance to Staff’s Data Requests are true and correct to the best of my knowledge, information, and belief.

*Robert Stanchina*

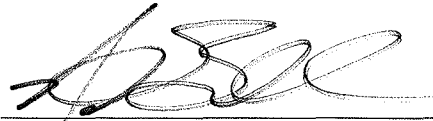
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Robert Stanchina  
Senior Director, Assurance Wireless USA, L.P.



As to objections:

Dated this 22 day of February, 2024



Andrew M. Carlson (MN Atty No. 284828)  
Nathan L. Buller (MN Atty No. 0387605,  
SD Atty No. 3766)  
Taft, Stettinius & Hollister LLP  
2200 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402  
612-977-8400  
acarlson@taftlaw.com  
nbuller@taftlaw.com

and

William A. Haas  
Managing Corporate Counsel  
T-Mobile  
P.O. Box 10076  
Cedar Rapids, IA 52410  
630-290-7615  
William.Haas@T-Mobile.com

*Attorneys for Assurance Wireless USA, L.P.*