
TO: COMMISSIONERS AND ADVISORS

FROM: LOGAN SCHAEFBAUER AND BRITTANY MEHLHAFF

RE: TC24-004 – IN THE MATTER OF THE FILING OF TRUCONNECT COMMUNICATIONS, INC.’S PETITION FOR APPROVAL OF A DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF SOUTH DAKOTA FOR THE LIMITED PURPOSE OF PROVIDING LIFELINE SERVICE TO QUALIFYING CUSTOMERS

DATE: October 31, 2024

Commission Staff (Staff) submits this Memorandum regarding the petition of TruConnect Communications, Inc. (TruConnect or Company), for designation as an Eligible Telecommunications Carrier (ETC) in South Dakota.

BACKGROUND

On January 17, 2024, TruConnect filed a petition for designation as an ETC (Petition) throughout the state of South Dakota, including federally recognized tribal lands, for the purpose of receiving federal low-income universal service support for prepaid wireless services, specifically Lifeline services.

On January 22, 2024, the South Dakota Telecommunications Association (SDTA) filed a petition to intervene in the docket. On February 7, 2024, the South Dakota Public Utilities Commission (PUC or Commission) issued an Order Granting Intervention to SDTA.

Both Staff and SDTA have participated in discovery with TruConnect. This Memorandum is based on information gathered from TruConnect’s Petition and accompanying filings in Docket TC24-004, TruConnect’s responses to Staff’s data requests, TruConnect’s responses to SDTA’s discovery requests, and Staff’s independent research.

OVERVIEW

Staff followed the framework provided by State and Federal rules to ensure TruConnect meets the specific requirements and standards needed to be designated as an ETC in South Dakota. In this section Staff will discuss certain South Dakota rules and subparts of the rules that Staff deemed necessary to consider and discuss the Company’s responses to those rules.

In a previous docket before the Commission, Staff wrote a Memorandum which addressed several South Dakota Administrative Rules (ARSD) that are either outdated or inapplicable in the context of a wireless

carrier seeking designation as a Lifeline-only ETC.¹ These include ARSD 20:10:32:42;² 20:10:32:43.02; 20:10:32:43.05; 20:10:32:43.06; and 20:10:32:43.07. Some of these rules conflict with Federal Communications Commission (FCC) Orders, and others, in whole or in part, cannot reasonably be applied to petitions for Lifeline-only ETC designation. If the FCC has granted forbearance on a particular requirement, 47 U.S.C. § 160(e) states “a state commission may not continue to apply or enforce any provision of this chapter that the Commission has determined to forbear from applying....” Staff will go into more detail on these rules in the following sections as applicable.

Authority to Designate an ETC

The State Commission is given authority to decide this matter by the FCC in 47 U.S.C. § 214(e)(2). 47 U.S.C. § 214(e)(2) also begins to lay the groundwork for what to consider when granting a company designation as an ETC.

ARSD 20:10:32:42, 47 U.S.C. § 214, and 47 C.F.R. § 54.201

ARSD 20:10:32:42 and 47 U.S.C. § 214 alike state:

Upon request and consistent with the public interest, convenience, and necessity, the commission may, in an area served by a rural telephone company, and shall, in all other areas, designate more than one telecommunications company as an eligible telecommunications carrier for a service area designated by the commission, so long as each additional requesting carrier meets the requirements of [47 C.F.R. § 54.201].

Therefore, if the Commission finds that this designation is consistent with the public interest, convenience, and necessity, the Commission may designate TruConnect as an ETC for the requested rural service area and shall designate TruConnect in a non-rural service area so long as TruConnect meets certain requirements of federal law. These requirements, according to 47 C.F.R. § 54.201(d)(1)-(2), are that TruConnect

- (1) Offer the Services that are supported by federal universal service support mechanisms under [47 C.F.R. § 54.101] and section 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier); and
- (2) Advertise the availability of such services and the charges therefore using media of general distribution.

Staff will address the public interest requirement later in this Memorandum. Staff will address the requirements of 47 C.F.R. § 54.201 and 47 C.F.R. § 54.101 in the following subsections.

¹ Staff Memorandum, p. 1-2, TC24-002 – In the Matter of the Petition of Assurance Wireless USA, L.P. for Designation as an Eligible Telecommunications Carrier for the Purpose of Offering Lifeline Service to Qualifying Customers (hereinafter “Assurance Memo”).

² The latter part of this ARSD states that “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.” In the Assurance Memo, Staff explained how—for Lifeline-only companies—the FCC has granted forbearance from the requirement that a company seeking ETC designation in a rural telephone company’s service area must offer its services coextensive with said service area. Assurance Memo, p. 2. The FCC’s forbearance on this matter applies to TruConnect’s petition as well.

The latter portion of ARSD 20:10:32:42 also provides requirements for ETC designation in an area served by a rural telephone company.³ See footnote 2. As stated in that footnote, the FCC has granted forbearance on the requirement that a carrier requesting ETC designation must offer its services coextensive with the rural telephone company's service area.

Supported Services Requirement of 47 C.F.R. § 54.201 and 47 C.F.R. § 54.101

In order to be eligible to receive universal service support, TruConnect must offer the following services pursuant to 47 C.F.R. § 54.101:

- Voice Grade Access to the Public Switched Telephone Network ("PSTN");
- Local usage minutes free of charge; and
- Access to emergency services provided by 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.

On page 9 of the Petition, TruConnect stated that it will "provide voice grade access to the public switched telephone network ("PSTN") through the purchase of wholesale CMRS services from T-Mobile and Verizon." On this same page, TruConnect stated that it provides customers with local service minutes at no charge and provides access to the required emergency services.

Facilities Requirement of 47 C.F.R. § 54.201(1)

Generally, a Petitioner for ETC designation must provide the aforementioned services using either its own facilities or a combination of its own facilities and resale of another carrier's services. However, the FCC has granted forbearance on this requirement if certain conditions are met.⁴ In 2012, the FCC issued an Order stating that a company seeking designation as a Lifeline-only ETC need not meet the 'own-facilities' requirement so long as the company complies with certain 911 requirements,⁵ and obtains an approved compliance plan with the FCC.

TruConnect confirmed it complies with the relevant 911 requirements established by the FCC. See Petition, page 9. Additionally, TruConnect has an approved Compliance plan with the FCC. See Exhibit 2. The approved Compliance Plan is for Telscape Communications, Inc. TruConnect is formerly known as Telscape Communications, Inc⁶. Therefore, TruConnect has met the conditions of the FCC and is granted forbearance from the facilities requirement of this law.

³ See ARSD 20:10:32:42 (providing requirements for ETC designation in areas served by a rural telephone company).

⁴ In the Matter of Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, FCC 12-11, ¶ 368.

⁵ Regarding these 911 requirements, the FCC's Order says:

Specifically, our forbearance from the facilities requirement of section 214(e) is conditioned on each carrier: (a) providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes; (b) providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services; and (c) complying with conditions (a) and (b) starting on the effective date of this Order.

Id. ¶ 373.

⁶ Petition p. 3

47 C.F.R. § 54.201(d)(2)

This law requires a carrier to advertise the availability of their services and charges using media of general distribution.

On pages 12-13 of the Petition, TruConnect provided details about how it will advertise the availability of supported services in compliance with this law. TruConnect also provided sample advertisements in Exhibit 4. Staff believes TruConnect will comply with this law.

Financial and Technical Capability Requirement of 47 C.F.R. § 54.201(h)

This law provides that a state commission may not grant ETC designation to a company unless the company has demonstrated that it is financially and technically capable of providing Lifeline service. In addition, the 2012 Lifeline Reform order states in regard to 47 C.F.R. § 54.202 in paragraph 388:

Therefore, in order to ensure Lifeline-only ETCs, whether designated by the Commission or the states, are financially and technically capable of providing Lifeline services, we now include an explicit requirement in section 54.202 that a common carrier seeking to be designated as a Lifeline-only ETC demonstrate its technical and financial capacity to provide the supported service. Among the relevant considerations for such a showing would be whether the applicant previously offered services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state.

In Response to Staff Data Request 1-1, TruConnect provided a balance sheet, income statement, and a statement of cash flows for the year ended December 31, 2023, for TSC Acquisition Corporation. See Exhibit 1-1. TruConnect is a subsidiary of TSC Acquisition Corporation.

On page 15 of the Petition, TruConnect addressed the financial and technical capability requirements. TruConnect provided additional information concerning these requirements in response to Staff's data requests. According to the 2012 Lifeline Reform Order, TruConnect should first demonstrate whether it has previously offered service to non-Lifeline consumers. TruConnect explains that, in combination with its affiliate Sage d/b/a TruConnect, it provides wireless services nationwide and Lifeline services in thirty-nine (39) jurisdictions⁷. In response to Staff's Data Requests 1-5 and 1-6, TruConnect provided tables illustrating its Lifeline and Non-Lifeline customers in different states and jurisdictions. As of April 1, 2024, TruConnect had a total of approximately 456,000 Lifeline customers in 8 states and one US territory⁸. As of the same date, TruConnect had a total of approximately 294,000 Non-Lifeline customers in the same 9 jurisdictions (8 states and one US territory). Given TruConnect serves Non-Lifeline customers, the Company will not rely exclusively on USF disbursements to operate and receives revenue from other sources.

Another relevant consideration is how long the company has been in business. TruConnect states it has been offering telecommunications service since 1998 (Petition, page 15).

⁷ Petition, page 15.

⁸ Staff notes its understanding that the customer counts by jurisdiction provided in response to Staff's data requests are for TruConnect only, as opposed to the jurisdictional Lifeline services information provided in TruConnect's petition, which is in combination with TruConnect's affiliate, Sage.

The 2012 Lifeline Reform Order considers whether the Company has been subject to enforcement action or ETC revocation proceedings in any state. TruConnect states on page 15 of the Petition that it has not been subject to ETC revocation proceedings.

Finally, TruConnect provides resold wireless service and therefore it also relies on the managerial and technical expertise of its underlying carriers, Verizon Wireless and T-Mobile USA, Inc. Based on this information, TruConnect appears to have met the financial and technical capability requirements as outlined in the 2012 Lifeline Reform Order in regard to 47 C.F.R. § 54.202.

ARSD 20:10:32:43(1)

This subpart of the rules requires the requesting company to provide “The name, address, and telephone number of the applicant and its designated contact person.”

On page 2 of the Petition, TruConnect provided information for Nathan Johnson, Co-CEO of TruConnect, and Danielle Perry, Chief Compliance Officer of TruConnect.

The Company meets the requirements of this subpart.

ARSD 20:10:32:43(2)

This subpart requires the Company provide the proposed effective date of the designation of ETC status.

The Company’s Petition did not provide a requested effective date. In response to Staff’s Data Request 1-2, received April 19, 2024, TruConnect proposed an effective date of May 1, 2024. However, there was not adequate time for the Commission to consider the application prior to the proposed effective date. SDTA also issued a second discovery request on April 23, 2024, and TruConnect responded on May 23, 2024. Since that time the Company, Staff, and SDTA have exchanged additional communications regarding the Petition.

ARSD 20:10:32:43(3)

ARSD 20:10:32:43(3) requires the company to provide “identification of the service area, including a detailed map, for which the designation is sought”.

On Page 10 of its Petition, “TruConnect requests ETC designation that is statewide in scope to allow the Company to provide Lifeline service wherever its underlying, facilities-based providers have wireless coverage. TruConnect’s requested service area includes the eight federally recognized Tribal Lands located throughout the State of South Dakota.” The Company attached as Exhibit 3 a list of South Dakota zip codes and the current coverage area maps for Verizon and T-Mobile.

The Company’s request for statewide ETC designation wherever its underlying, facilities-based providers have wireless coverage is vague. Certain areas of the state appear to not have coverage according to the maps provided in Exhibit 3. Therefore, TruConnect is not able to serve state-wide and certification should not be granted as such. Such coverage maps are not “detailed maps” as required by the rule.

The Company subsequently provided a map to Staff and SDTA indicating the zip codes it intends to serve in South Dakota. The Company filed this map in the docket on September 12, 2024. This updated coverage map breaks down TruConnect’s 4G LTE Non-Tribal Coverage, Limited Coverage areas, Tribal Coverage areas, and zip codes in which service will not be provided.

Staff believes TruConnect has met the requirement of this rule. However, the Commission should determine whether ETC designation should be granted for the “limited coverage” areas. While the map filed on September 12, 2024, more clearly identifies the desired service area and eliminates certain zip codes located on the edges of the state boundary, Staff has concerns about the zip codes labeled as “limited coverage”. For these limited coverage zip codes, although TruConnect has committed to providing service “where underlying facilities are available”, the Company does not appear to have a process in place by which to properly identify and notify potential customers of service quality issues they may experience in these zip codes. Staff further addresses these concerns under the public interest section of this memorandum.

* In recent correspondence with Staff, TruConnect stated that it reviewed the zip codes identified as ‘limited’ and determined that several do not have adequate service coverage. Accordingly, TruConnect plans to delete those zip codes from the requested service area. TruConnect indicated that this change will be included in its responsive filing to SDTA. If TruConnect has indeed removed those zip codes with inadequate service coverage, this would alleviate Staff’s concerns about customers signing up for service and experiencing service issues. However, because Staff has not yet seen the filing, Staff will stand by its prior statements in this section unless and until further information is received.

ARSD 20:10:32:43(6)

This rule is discussed below in the public interest portion.

ARSD 20:10:32:43.01

This ARSD requires “an applicant requesting designation as an eligible telecommunications carrier shall commit to providing service throughout its proposed designated service area to all customers making a reasonable request for service.” Also included in this rule are ways to remedy when a customer requests service but is outside of the coverage area.

In its Petition, pages 10-11, TruConnect “commits to provide service throughout its proposed service area on a timely basis to all customers making a reasonable request for service where underlying facilities are available.” In Staff’s data requests 2-4 and 2-5, Staff asked TruConnect to explain in detail how it will comply with the aforementioned rule. TruConnect’s response explained that, when a customer signs up with TruConnect, TruConnect first determines which underlying carrier – Verizon or T-Mobile – is best suited to serve the customer and then places the customer on that network. If a customer then experiences coverage issues, TruConnect will investigate whether a switch to the other network will improve the customer’s service. If this process does not work, then TruConnect will investigate whether the customer’s handset is causing issues and replace the handset if need be.

If these troubleshooting methods are unsuccessful, TruConnect explains that, as a reseller, TruConnect is unable to take certain actions provided in ARSD 20:10:32:43.01(2) including extending facilities, adjusting cell towers, adjusting the network or facilities, or adding facilities. Additionally, TruConnect states that it would be excessively and unreasonably costly for TruConnect to enter into an agreement with another carrier in order to provide service to a requesting customer as suggested by ARSD 20:10:32:43.01(2)(e). If a certain action would prove to impose excessive or unreasonable cost, then TruConnect need not perform the action in accordance with ARSD 20:10:32:43.01(2).

With TruConnect’s commitment and corresponding explanations, Staff believes TruConnect has met the requirements of this rule. However, with the responses given, Staff has concerns about customers

getting signed up for service without first being informed by TruConnect that the potential customer lives in an area with poor coverage. Staff will address this point further in the public interest section.

ARSD 20:10:32:43.02

This ARSD requires that a two-year plan be submitted with the Petition. However, Staff believes this rule is not applicable to TruConnect since they are not going to be receiving high-cost support.

ARSD 20:10:32:43.03 and 47 C.F.R § 54.202(a)(2)

This ARSD requires that a requesting company provide a demonstration of ability to remain functional in emergency situations.

TruConnect discusses this requirement on page 14 of its Petition. The Company “understands that the networks of its Underlying Carriers have access to a reasonable amount of back-up power to ensure functionality without an external power source, can reroute traffic around damaged facilities, and are capable of managing traffic spikes resulting from emergency situations. Indeed, the Underlying Carriers have certified to the FCC that their networks function in emergency situations.” TruConnect states its customers benefit from the same functionality.

Staff requested additional explanation on how the underlying carriers reroute traffic around damaged facilities and manage traffic spikes resulting from emergency situations. TruConnect’s response to Staff Data Request 1-24 states that “[a]s Tier 1 mobile network operators, T-Mobile and Verizon have redundancies, back-up generator power and an extensive disaster recovery program. T-Mobile and Verizon networks are capable of managing traffic spikes that may occur during emergency situations and can reroute traffic in the event of damaged facilities. T-Mobile and Verizon have sufficient back-up power to ensure functionality if their external power supply is unavailable.”

Staff feels TruConnect has demonstrated sufficient capabilities to remain functional in emergency situations.

ARSD 20:10:32:43.04 and 47 C.F.R § 54.202(a)(3)

This ARSD requires an applicant requesting designation as an eligible telecommunications carrier shall demonstrate that it will satisfy applicable consumer protection and service quality standards.

TruConnect discusses this commitment on page 14 of the Petition. TruConnect commits to comply with the Cellular Telecommunications and Internet Association’s (CTIA) Consumer Code for Wireless Service. Given TruConnect’s commitment, Staff believes TruConnect has demonstrated this requirement of this rule sufficiently.

ARSD 20:10:32:43.05

This ARSD 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.

On Page 9 of the Petition (footnote 18), TruConnect stated that its “plans also meet the Commission’s requirement that the applicant’s local usage plan be comparable to plans offered by ILECs within the proposed designated service areas.”

However, the FCC removed this requirement from 47 C.F.R. § 54.202 in 2012 and our administrative rule has not been revised to reflect that change. Therefore, Staff asserts the information required by this rule is not relevant to this docket.

ARSD 20:10:32:43.06

This ARSD requires an applicant requesting designation as an eligible telecommunications carrier shall 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. On Page 13 of the Petition, TruConnect did provide the required certification.

However, Staff acknowledges that the FCC removed this requirement from 47 C.F.R. § 54.202 in 2012. Our administrative rule has not been revised to reflect this change.

ARSD 20:10:32:43(6) and ARSD 20:10:32:43.07

These two rules require the company to explain why their services are in the public interest and lays out the guidelines the Commission shall consider but does not limit what the Commission can look at, when making their decision on if the petition to grant designation as an eligible telecommunications carrier is in fact in the public interest.

Staff respectfully defers to the Commission the matter of public interest determination for this docket but provides information gathered in Staff's data requests and review of the docket for the Commission to weigh in the public interest determination as described in ARSD 20:10:32:43.07 below.

Benefits of Increased Customer Choice

The first item the Commission shall consider when determining whether the ETC designation is in the public interest is the benefits of increased customer choice.

TruConnect states in its petition, page 23, that “[i]ntroducing TruConnect into the market as an additional wireless ETC provider will afford low-income South Dakota residents a wider choice of providers and available services while creating a competitive marketplace as ETCs compete for a finite number of Lifeline-eligible customers. Increasing the competitive marketplace of providers has the potential to effectively increase the penetration rate and reduce the number of individuals not connected to the PSTN.”

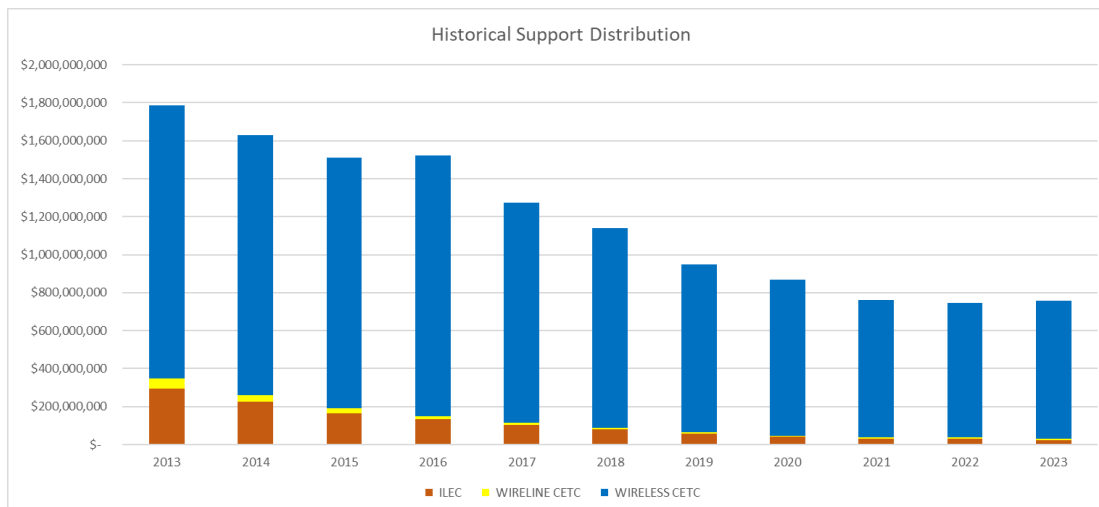
Allowing customers to have more than one option for service, whether it be wireless or wireline service, allows the customer to choose the available offering that best suits their needs. Designating additional wireless ETCs provides additional options and creates competition which should help to incentivize companies to offer better services to customers in order to keep its customers.

Impacts on the Universal Service Fund (USF)

Since Lifeline does not use high-cost support, Staff's comments relate to the Lifeline funding only.

In the past there have been multiple reports and studies detailing fraud, waste, and abuse taking place within the Lifeline Program. In January of 2014 the National Lifeline Accountability Database (NLAD) went into effect nationwide attempting to reduce the ability for a company or customer to commit fraud, waste, and abuse of the Lifeline program.

As seen in the graph below based on publicly available Historical Support Distribution data from the Universal Service Administrative Company (USAC) website, (https://www.usac.org/wp-content/uploads/lifeline/documents/Data/20230816_Lifeline-Data-and-Statistics.xlsx) there has been a decline in disbursements since 2013 almost every year and has leveled off since about 2021.



The graph above based on the USAC website data shows the breakdown of total disbursements between wireless competitive ETCs (CETC), wireline CETCs, and incumbent local exchange carriers (ILEC). As you can see from this graph, wireless CETCs receive an overwhelming majority of disbursements each year. While designating TruConnect as an ETC could have an effect on the support distribution, it is hard to quantify how much of an effect given the large number of wireless CETC disbursements because it is hard to predict if TruConnect will get customers from wireline CETCs or ILECs to switch to the wireless option offered by TruConnect and drop their wireline product, if they currently have one, or if TruConnect will get other wireless CETC customers to switch to its service. If TruConnect only gets customers from other wireless CETCs the disbursement percentages in the chart above would likely not change significantly. And the fact that Lifeline support disbursements have dropped considerably since the implementation of the NLAD, chances for waste, fraud, and abuse appear to be very small and kept in check thanks to the measures in place to verify potential customers. Also, since disbursements have dropped significantly compared to 2013, it appears there are plenty of available Lifeline funds for more customers when comparing overall disbursement dollars from 2013 to 2023.

Furthermore, in response to SDTA’s data request 1-8, TruConnect confirmed that TruConnect, or any other names TruConnect has operated under, or a company that owns TruConnect, have not been investigated or penalized for any sort of waste, fraud, or abuse of the Lifeline program.

Advantages and Disadvantages of TruConnect’s Lifeline Offering

TruConnect discusses advantages of its serving offering on pages 21-22 of the Petition. TruConnect’s stated benefits include: larger calling areas compared to traditional wireline carriers, the convenience and security afforded by mobile service, and an unlimited amount of voice and generous amount of broadband access included without cost, as well as access to free caller ID, call waiting, and Voicemail features, and access to 911 services regardless of the number of voice minutes remaining on the Lifeline consumer’s plan. TruConnect states its Lifeline offerings compare favorably with those of other competitive ETCs.

Staff provides for the Commission the following information and discussion regarding the advantages and disadvantages of TruConnect’s service offering compared to other providers.

Staff believes the comparison of providers’ service offerings is a valid consideration of the public interest standard according to ARSD 20:10:32:43.07. The tables below provide a side-by-side comparison between TruConnect’s proposed offerings,⁹ other wireless ETCs approved to offer Lifeline services in South Dakota (enTouch and Assurance¹⁰), and general wireline Lifeline requirements.¹¹ The information for enTouch was obtained from enTouch’s website¹² and the information from Assurance is from Staff’s Memorandum in Docket TC24-002.

Non-Tribal Plan Offerings

	TruConnect	enTouch			Assurance	Lifeline Wireline
Network Provider	Verizon and T-Mobile	T-Mobile			T-Mobile	General Carrier Requirements
Areas Offered	Rural and non-rural areas	Non-Rural Areas			Certain rural and non-rural areas	All areas
		Base Plan	Plan 2	Plan 3		
Voice/Texting	Unlimited minutes and Unlimited text	300 minutes and 300 text	1,000 minutes and 1,000 text	Unlimited minutes and Unlimited text	1,000 minutes and Unlimited Text	No minimum
Price	Free	Free	\$5.00 per month	\$25.00 per month	Free	varies
Data	4.5 GB	4.5 GB	4.5 GB	6 GB	4.5 GB	1,280 GB
Speed	3G or better	3G or better	3G or better	3G or better	3G or better	25/3 Mbps
Other comments	Free SIM Card	Customer must provide device	Customer must provide device	Customer must provide device	Free Device Available or Customer can provide their own device	

⁹ See Petition, Exhibit 6.

¹⁰ Note: Assurance did not propose to serve Tribal areas.

¹¹ Refer to the USAC website.

¹² enTouch offers several Non-Tribal Lifeline Plans. Staff chose 3 non-tribal and 2 tribal plans to display here for comparison purposes. See enTouch’s website for all offerings.

Tribal Plan Offerings

	TruConnect	enTouch		Lifeline Wireline
Network Provider	Verizon and T-Mobile	T-Mobile		General Carrier Requirements
Areas Offered	Rural and non-rural areas	Non-Rural Areas		All areas
		Base Plan	Plan 2	
Voice/Texting	Unlimited minutes and Unlimited text	Unlimited minutes and unlimited text	Unlimited minutes and unlimited text	No minimum
Price	Free	Free	\$5.00 per month	varies
Data	4.5 GB	4.5 GB	6 GB	1,280 GB
Speed	3G or better	3G or better	3G or better	25/3 Mbps
Other comments	Free SIM Card	Customer must provide device	Customer must provide device	

TruConnect’s Lifeline offering also provides the following “Top-Ups” Options for customers to purchase additional data:

	Price
International Top Up	\$5
500 MB High Speed Data	\$5
1 GB High Speed Data	\$10
3 GB	\$20
8 GB	\$30

It is Staff’s understanding that for wireline providers, a customer can choose any eligible plan offered by the wireline provider and reduce it by the amount the FCC allows depending on if it’s on tribal or non-tribal land¹³.

Staff will note that Commission does not approve the rates/plan offerings. The plans in the tables above are current offerings and could change over time. This discussion simply compares TruConnect’s proposed Lifeline plans with other providers’ current Lifeline plans.

TruConnect’s Lifeline offering is the same for non-tribal and tribal members. This offering is an advantage of TruConnect’s offering compared to other wireless ETCs because the plan is free with unlimited voice and texting with 4.5 GB data. Other free wireless ETC non-tribal plans have limited talk and/or text.

Another key advantage of TruConnect’s offering, and as with all wireless companies, over wireline companies is the mobility aspect. Customers can take their Lifeline service with them wherever they go.

¹³ \$9.25 Lifeline Discount and \$34.25 Tribal Lifeline Discount

Another disadvantage is there are no planned offices in the state of South Dakota.¹⁴ Having no offices always makes troubleshooting a device more difficult, but not impossible, if the device isn't working for any reason. The customers will have to find some other way to get ahold of TruConnect via telephone or internet with no offices available for customers to walk into. This could prove difficult for low-income customers to do if the device that isn't working is the only phone/internet they have available at home.

Another disadvantage, when compared to a wireline company, is the data caps. Wireline companies are required to offer 1,280 GB of data and wireless only companies have to offer 4.5 GB of data according to the USAC website. If the wireless phone is the only source of internet the customer has at home, 4.5 GB likely will not be enough for the entire household's needs. This is something the consumer needs to be aware of and consider before deciding on which Lifeline option they choose.

A third potential disadvantage with all wireless service is, when the wireless device leaves the household, everyone left in the household will be without phone or internet service if this Lifeline product is their only household phone or internet source. Only the customer can really determine if this truly is a disadvantage to their household situation or not.

Finally, Staff notes that TruConnect is a reseller, not a facilities-based provider. TruConnect differs from the most recently approved ETC in South Dakota, Assurance, in this way. As a reseller, TruConnect lacks the ability to improve or expand its network or fix any problems with the underlying carrier's network that may cause service issues for its customers. The Commission has previously designated enTouch as a Lifeline only ETC in non-rural areas only. If granted by the Commission, TruConnect would be the first reseller to be granted an ETC in rural areas. The Commission should consider whether designating a reseller as an ETC in rural areas will best serve the needs of rural consumers.

Commitment to Provide Quality Telephone Services

In the Petition on page 14, TruConnect confirms that it will provide quality services to its customers and abide by the Cellular Telecommunication and Internet Association's Consumer Code for Wireless Service (CTIA Consumer Code).

TruConnect's Ability to Provide Supported Services throughout the Designated Service Area

On pages 10 and 11 of the Petition, TruConnect commits to provide service throughout is proposed service area on a timely basis to all customers making a reasonable request for service where underlying facilities are available. Further, on page 13 of the Petition, TruConnect states that "[b]oth the T-Mobile and Verizon networks are operational and largely built out. Thus, TruConnect will be able to commence offering its Lifeline service to all locations served by T-Mobile and Verizon very soon after receiving approval from the Commission."

In an earlier section, Staff noted its concerns regarding the process in place for TruConnect to determine whether it can provide quality service to a customer prior to the customer signing up. TruConnect explains in response to DR 2-5 that TruConnect figures out the zip code where the potential customer resides, determines if the underlying carriers provide service to that zip code, and then accepts that individual as a customer if the underlying carriers indeed provide service to that zip code. In this answer, TruConnect claims a reputation for providing high quality service to customers and claims that it is extremely rare for customers to not have satisfactory coverage at their residence.

¹⁴ TruConnect response to SDTA Data Request 1-18.

Still, Staff is concerned with the idea that customers will be signed up for service without being informed that they reside or commute daily within areas that have poor coverage from TruConnect's underlying carriers. Staff acknowledges that Verizon and T-Mobile have vast coverage throughout the state of South Dakota. However, this coverage is variable and does not envelop the state of South Dakota. It seems to Staff that if TruConnect can determine which underlying carrier's network will provide the best service when a request for service is made, then TruConnect should also inform the potential customer if it is possible that neither underlying carrier could provide quality service. Staff feels this issue is relevant to the Commission's decision regarding public policy and is something the Commission should consider. Staff notes that Assurance chose to not serve in the zip codes where it has limited coverage.

*The paragraph with an asterisk on page 6 of this Memo is applicable in this section as well. If TruConnect does indeed remove from its requested service area any zip codes which have inadequate service coverage, this would alleviate much of Staff's concerns regarding potential customers experiencing poor service. Regardless, Staff reiterates that if TruConnect is aware of any area in the state in which it has inadequate coverage, that customers be made aware of this prior to signing up for service.

Detrimental Effect on the Provisioning of Universal Service by the ILEC

The final portion to consider under ARSD 20:10:32:43.07 is whether designation of TruConnect as an ETC will have a detrimental effect on the provisioning of universal service on the ILEC. One thing to note is that CenturyLink, the ILEC in the territory covered by the non-rural portion of the request, did not petition to intervene in this docket and as of the date of this memo has not filed any comments in this docket. By CenturyLink's decision not to intervene or comment, we can infer that they do not believe this designation would have a detrimental impact to them or they are not concerned about the effect designation may have. Based on that fact, Staff does not believe that designating TruConnect as an ETC in the CenturyLink territories as described in the Petition will have a detrimental impact on the ILEC given the fact that competition is already allowed within the CenturyLink areas and wireless ETCs already serve in CenturyLink areas.

For the rural areas, SDTA was granted intervention in this docket and SDTA filed a letter on September 19, 2024, regarding the docket, including comments pertaining to this issue. Staff will stick to the specific Lifeline topic. As shown previously in this memo, Lifeline counts have dropped over time to a point that current funding needs are a small amount compared to 2013. Concerns relating to funding seem lessened given this fact. And getting a free option into the hands of consumers will likely help get a phone and the internet in the hands of someone who otherwise couldn't afford it.

Creamskimming Analysis

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. However, in the *Service Area Forbearance Order*, the FCC stated that "Any creamskimming concerns in an area of a rural telephone company are not relevant in considering the designation of a Lifeline-only ETC." ¶ 13.¹⁵ Therefore, Staff believes a creamskimming analysis is not necessary in this matter.

¹⁵ As the Commission previously explained, the amount of Lifeline support is not tied to the cost of serving an area. Rather, Lifeline support is a fixed, per-line amount nationwide, and ETCs are required to pass through the Lifeline support they receive to the benefit of their subscribers. Any creamskimming concerns in an area of a rural telephone company are not relevant in considering the designation of a Lifeline-only ETC. Creamskimming is not a

CONCLUSION

As previously stated, this memo was meant to outline the South Dakota rules and the FCC requirements placed on TruConnect's application for designation as a Lifeline-only ETC. Staff believes TruConnect has complied with the applicable laws for ETC applications in South Dakota, although Staff does not make a recommendation on whether or not this ETC designation is in the public interest. Staff respectfully defers to the Commission's decision on whether designating TruConnect as an ETC is in accordance with the public interest, convenience, and necessity of South Dakota.

public-interest consideration in the Lifeline context, whether the competing carrier is offering wireline or wireless service." *Id.* ¶ 13.