

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

**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 )**

**ORDER APPROVING JOINT  
STIPULATION; ORDER GRANTING  
PETITION FOR DESIGNATION AS AN  
ELIGIBLE TELECOMMUNICATIONS  
CARRIER  
  
TC24-004**

On January 17, 2024, the South Dakota Public Utilities Commission (Commission) received a Petition from TruConnect Communications, Inc.'s (TruConnect) for an Eligible Telecommunications Carrier (ETC) Designation. TruConnect seeks ETC designation throughout the state, including rural areas and federally recognized tribal lands.

On January 18, 2024, the Commission electronically transmitted notice of the filing and the intervention deadline of February 2, 2024, to interested individuals and entities on the Commission's PUC Weekly Filing electronic listserv. On January 22, 2024, the South Dakota Telecommunications Association (SDTA) filed a Petition to Intervene.

On February 7, 2024, the Commission issued an Order Granting Intervention to SDTA. On March 8, 2024, SDTA and TruConnect filed a Stipulation and Confidentiality Agreement. On April 19, 2024, TruConnect filed responses to staff's first set of data requests. On May 23, 2024, TruConnect filed responses to SDTA's second discovery request. On September 12, 2024, TruConnect filed coverage area information and responses to staff's second set of data requests. On September 18, 2024, staff filed a Joint Stipulation between all the parties. On September 19, 2024, SDTA filed comments. In its comments, SDTA specifically requested that, if ETC status is granted, it be conditioned upon the following six conditions:

- 1) ETC designation should be conditioned upon the representations and commitments made by TruConnect both in writing and orally at any future Commission meeting. SDTA Discovery request and TruConnect Answers are attached as Exhibit A.
- 2) TruConnect must provide new customers with notice that they may cancel service at any time without penalties or fees.
- 3) The Commission should be a resource for consumers and TruConnect in cases of consumer complaints and TruConnect must provide the Commission with direct contact for a TruConnect representative that has authority to resolve consumer complaints or concerns.
- 4) ETC designation should be limited to specific service territories wherein all public interest requirements are met. TruConnect's vague request regarding the ETC designated service territory should be rejected. The ETC designation service territory should be shown on a detailed map, publicly available in the docket.
- 5) TruConnect should be restricted from modifying its service territory in any way without prior approval from the Commission, through a docket filing.
- 6) TruConnect should provide an annual report to the Commission that includes:
  - a. A record of all TruConnect South Dakota Lifeline customer internal complaints.
  - b. A record of all retail non-profit, local and/or state agency partners used by TruConnect to communicate with prospective South Dakota customers and/or enroll South Dakota customers.

On October 31, 2024, Staff filed its memorandum in this matter. On November 5, 2024, TruConnect filed a response to the comments of SDTA. On November 6, 2024, TruConnect filed revised coverage area information. On November 12, 2024, TruConnect filed a letter regarding ZIP code coverage clarification.

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

At its regularly scheduled meeting on November 7, 2024, the Commission considered this matter. All Parties having agreed, the Commission voted unanimously to approve the Joint Stipulation. After reviewing all filings in the docket, considering oral arguments, and asking questions of the Parties, the Commission found that TruConnect has complied with the requirements for designation as an Eligible Telecommunications Carrier (ETC) for the purpose of receiving federal Lifeline support in rural and nonrural areas, subject to certain conditions, with the exception of those zip codes identified in TruConnect's November 6, 2024 filing as not having coverage. No party objected to the conditions nor the removal of the four identified zip codes from designation.

In order to be designated a Lifeline-only ETC, a carrier must offer voice telephony service or broadband Internet access service as the supported service, using its own facilities or a combination of its own facilities and resale of another carrier's services, throughout the service area for which the designation is received and advertise the availability of, and the charges for, those services throughout the service area. 47 U.S.C. § 214(e); 47 C.F.R. § 54.401(a)(2). However, the Federal Communications Commission (FCC) has granted blanket forbearance from the "own facilities" requirement to Lifeline-only carriers if the carriers comply with certain conditions. In the Matter of Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 at~ 368 (rel. Feb 6, 2012). TruConnect has been granted forbearance by the FCC.<sup>1</sup> TruConnect will provide its wireless service by reselling T-Mobile and Verizon services.

The Federal Communications Commission (FCC) has designated the following voice telephony services for support by federal universal service support mechanisms: (1) voice grade access to the public switched network or its functional equivalent; (2) minutes of use for local service provided at no additional charge to end users; (3) access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and (4) toll limitation services to qualifying low-income consumers. 47 C.F.R. § 54.101(a). TruConnect has committed to providing the supported services.<sup>2</sup>

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

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

Pursuant to ARSD 20:10:32:43.01, an applicant for ETC status must commit to providing service to customers making a reasonable request for service in the service area. TruConnect demonstrated through its filings, responses to data requests, and responses to Commissioner questions at the November 7, 2024 Commission meeting that it is able to satisfy this rule for the areas in which it receives ETC designation. TruConnect has agreed not to receive ETC designation in those four zip codes where it does not have coverage.

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<sup>1</sup> TruConnect's approved compliance plan is for Telscape Communications, Inc. TruConnect was formerly known as Telscape Communications, Inc.

<sup>2</sup> Petition, p. 9.

<sup>3</sup> Petition, pp. 12-13.

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

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

Pursuant to ARSD 20:10:32:43.03, an applicant must demonstrate its ability to remain functional in emergency situations including a demonstration that it has a reasonable amount of back-up power to remain functional in emergency situations without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. Through the Petition and responses to data requests, TruConnect demonstrated that it has the ability to remain functional in emergency situations.<sup>5</sup>

Pursuant to ARSD 20:10:32:43.04, an applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards. In a November 6, 2024 filing, TruConnect identified four zip codes in which it had no coverage. On November 12, 2024, TruConnect clarified that the four zip codes indicated on the map filed November 6, 2024 as having no coverage were correct; however, TruConnect's November 6, 2024 letter inadvertently referred to zip code 57734 in lieu of 57724. TruConnect did not object to not receiving ETC designation in those zip codes at this time. Specifically, those zip codes are 57634, 57644, 57645, and 57724. TruConnect has demonstrated that it will satisfy this rule.<sup>6</sup>

ARSD 20:10:32:43.05 requires that a requesting company demonstrate that it offers a local usage plan comparable to the one offered by the incumbent local exchange carrier in the service areas for which the applicant seeks designation. This requirement was removed from federal law back in 2012.<sup>7</sup> Therefore, the Commission finds TruConnect need not submit a local usage plan.

ARSD 20:10:32:43.06 requires an applicant requesting ETC designation to certify that it will provide equal access to long distance carriers if no other eligible telecommunications carrier is providing equal access within the service area. This requirement was removed from federal law in 2012. Therefore, the Commission finds such certification is not required in this matter.

In order to designate an applicant as an ETC, the Commission must determine whether such designation is in the public interest pursuant to ARSD 20:10:32:43.07. The Commission finds that TruConnect's Petition is in the public interest. As a Lifeline-only ETC it would serve the needs of low-income customers by increasing customer choice and offering a zero-cost option for Lifeline customers. After evaluating the public interest considerations, the Commission finds that the designation of TruConnect will bring the benefits of increased consumer choice, and it has committed to providing quality services to the designated service area. The Commission finds the designation of TruConnect as a Lifeline-only ETC is in the public interest.

ARSD 20:10:32:43.07 requires the Commission to conduct a creamskimming analysis if an applicant seeks designation in the study area of a rural telephone company. The FCC has stated that creamskimming is not a relevant concern regarding the designation of a Lifeline-only ETC.<sup>8</sup> Therefore, the Commission finds that a creamskimming analysis is not required.

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

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<sup>5</sup> Staff Memorandum, p. 7.

<sup>6</sup> Staff Memorandum, p. 7.

<sup>7</sup> 47 C.F.R. § 54.202 (2012).

<sup>8</sup> *In the Matter of Telecommunications Carriers Eligible for Support, Lifeline and Link Up Reform*, Memorandum Opinion and Order, WC Docket No. 11-42, FCC 13-44, ¶ 13.

TruConnect has demonstrated it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E.

It is therefore

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

ORDERED, that TruConnect is hereby designated as an Eligible Telecommunications Carrier in rural and nonrural areas in South Dakota for the purpose of receiving federal low-income universal service support for prepaid wireless Lifeline services, with the exception of zip codes 57634, 57644, 57645, and 57724. It is further

ORDERED, TruConnect must seek and receive authority from this Commission in order to be designated as an ETC in zip codes 57634, 57644, 57645, and 57724 in the future. It is further

ORDERED, that this ETC designation is conditioned upon all representations and commitments made by TruConnect both in writing and orally in this docket including filings, responses to data requests, and statements to the Commission. It is further

ORDERED, that as a condition of its ETC designation, TruConnect must provide the Commission with direct contact information for a TruConnect representative that has authority to resolve consumer complaints or concerns. This contact information does not need to be filed in the docket, rather it may be provided directly to Commission staff. TruConnect must promptly update the contact information if the contact person changes. It is further

ORDERED, that TruConnect shall be restricted from modifying its service territory in any way without prior approval from the Commission through a docket filing.

Dated at Pierre, South Dakota, this 12<sup>th</sup> day of November 2024.

<p><b>CERTIFICATE OF SERVICE</b></p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.</p> <p>By: <u><i>Kristie Fiegen</i></u></p> <p>Date: <u>12 Nov 2024</u></p>
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BY ORDER OF THE COMMISSION:

*Kristie Fiegen*

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KRISTIE FIEGEN, Chairperson

*Gary Hanson*

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GARY HANSON, Commissioner

*Chris Nelson*

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CHRIS NELSON, Commissioner