

**BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

**APPLICATION OF ASSURANCE)
WIRELESS USA, L.P., FOR)
DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER)
FOR THE PURPOSE OF OFFERING)
LIFELINE SERVICE TO QUALIFYING)
CUSTOMERS)**

Docket No. _____

PETITION

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January 12, 2024

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| ASSURANCE WIRELESS' SUBMISSION OF DOCUMENTS FROM DOCKET NO. TC24-002 ATTACHMENT A |
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I. INTRODUCTION

Assurance Wireless USA, L.P. (“Assurance” or “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934,¹ as amended, (the “Act”), Sections 54.101 through 54.207² of the Rules of the Federal Communications Commission (“FCC”),³ South Dakota Codified Laws,⁴ and the rules and regulations of the South Dakota Public Utilities Commission (“Commission”),⁵ submits this Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of South Dakota. Assurance seeks this designation solely for the purpose of offering Lifeline services to qualifying customers. As explained herein, the public interest would be served by granting this Application, thereby enabling Assurance to advance universal service by serving the needs of qualifying low-income consumers.

¹ 47 U.S.C. § 214(e)(2) and 47 U.S.C. § 254.

² 47 C.F.R. §§ 54.101-54.207.

³ Assurance files its Petition in accordance with the rules adopted by the FCC in the 2012 Lifeline Reform Order. *See In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42 and 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“2012 Lifeline Reform Order”).

⁴ S.D.C.L. 49-31-78.

⁵ A.R.S.D. 20:10:32:42-43.

As demonstrated below and certified in Exhibit 1 to this Application, the Company meets all statutory and regulatory requirements for designation as an ETC, for Lifeline purposes only, in South Dakota. Assurance is uniquely positioned to reach unserved and underserved Lifeline-eligible consumers, especially those residing in rural areas. Further, the prompt grant of Assurance's application would advance the public interest because it would enable the Company to immediately commence providing much needed Lifeline services to a broad range of low-income consumers in South Dakota. Specifically, Assurance currently provides service in South Dakota that is made affordable to low-income consumers through the FCC's Affordable Connectivity Program ("ACP"). But the ACP may soon expire—granting this Petition would ensure that Assurance is able to continue providing affordable service to low-income South Dakotans if the ACP expires. Accordingly, Assurance respectfully requests that the Commission expeditiously approve this Application, and asks that the ETC designation become effective no later than May 1, 2024.⁶

All correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be addressed to:

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⁶ The date on which the ACP may expire is not precisely known; Assurance requests that the effective date for its ETC designation be no later than the date on which the ACP expires.

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II. COMPANY OVERVIEW

Assurance is a limited partnership registered with the South Dakota Secretary of State to operate in the state. Assurance is an indirect subsidiary of T-Mobile USA, Inc. (“T-Mobile”), which is incorporated under the laws of the State of Delaware and headquartered in Bellevue, Washington. T-Mobile’s corporate offices are located at 12920 SE 38th Street, Bellevue, Washington, 98006.

Assurance provides wireless telecommunications services using T-Mobile’s facilities-based wireless network. Assurance is currently designated as an ETC to provide Lifeline services in 39 states⁷ and the District of Columbia. It is also an approved provider in the FCC’s Affordable Connectivity Program (“ACP”) and provides ACP in South Dakota.

As a national provider of wireless voice, messaging, data, and broadband services, T-Mobile’s award-winning 5G network covers over 330 million Americans, including over 300 million covered by its Ultra Capacity 5G network. T-Mobile has deployed a robust network in South Dakota and is either directly or indirectly interconnected with incumbent local exchange carriers (“ILECs”) and other telecommunications providers throughout the state.

⁷ Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, North Carolina, New Hampshire, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

III. THIS COMMISSION HAS JURISDICTION TO DESIGNATE ELIGIBLE TELECOMMUNICATIONS CARRIERS

Under Section 214(e)(2) of the Act, state public utility commissions have the primary responsibility for the designation of ETCs.⁸ A state commission with jurisdiction over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of Section 214(e)(1). *See* 47 U.S.C. § 214(e)(2); *see also* S.D.C.L. 49-31-78. Therefore, this Commission has the authority to designate Assurance as an ETC in South Dakota.

IV. ASSURANCE MEETS THE STATUTORY AND REGULATORY PREREQUISITES FOR ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

A petition for ETC designation in South Dakota must meet specific federal statutory and regulatory requirements. As demonstrated below, Assurance meets the requirements for ETC designation pursuant to Section 214(e)(2) of the Communications Act, including the requirements outlined in the FCC's *2012 Lifeline Reform Order* and *Lifeline Modernization Order*.⁹

These include:

- 1) a certification that the petitioner offers or intends to offer all services designated for support by the FCC pursuant to section 254(c) of the Communications Act;
- 2) a certification that the petitioner offers or intends to offer the supported services on a common carrier basis either using its own facilities or a combination of its own facilities and/or resale of another carrier's services;

⁸ 47 U.S.C. § 214(e)(2).

⁹ *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 00-197, 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) ("*Lifeline Modernization Order*").

- 3) a description of how the petitioner will advertise the availability of the supported services and the related charges using media of general distribution; and
- 4) a description of the geographic service area for which the petitioner requests to be designated as an ETC.

In addition, a petitioner seeking designation as an ETC solely for the purpose of offering Lifeline service must:

- 1) certify that it will comply with the service requirements applicable to the support that it receives;
- 2) demonstrate its ability to remain functional in emergency situations;
- 3) demonstrate its ability to satisfy applicable consumer protection and service quality standards; and
- 4) demonstrate that it is financially and technically capable of providing Lifeline service.¹⁰

Finally, prior to designating a carrier as an ETC, the Commission must determine whether such designation is in the public interest. When making a public interest determination, the Commission considers the benefits of increased consumer choice and the unique advantages and disadvantages of the petitioner's service offerings. As shown below, Assurance satisfies each of the requirements listed above, and this Petition demonstrates that granting Assurance ETC status in South Dakota is in the public interest.

A. Assurance is a Common Carrier

Assurance provides commercial mobile radio services ("CMRS") that are regulated pursuant to the common carrier requirements of the Act and therefore meets the ETC requirement of being a common carrier.

¹⁰ 47 C.F.R. § 54.202(a).

B. Assurance Offers the Services Supported by Federal Universal Service Support Mechanisms

Assurance provides the services required by 47 C.F.R. § 54.101(a):

- 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.

In addition, though not a required supported service, Assurance will also provide broadband internet access service to low-income consumers so that its customers will have access to full Lifeline support. Assurance’s initial proposed Lifeline service offering for South Dakota includes 1000 Voice minutes, 4.5GB Data each month, unlimited texts free of charge to the customer, and a free network-compatible phone. The governing terms and conditions of the Company’s Lifeline service offering are set forth at <https://www.assurancewireless.com/legal/terms-and-conditions>.

C. Assurance Will Use Facilities Owned and Operated by its T-Mobile Affiliates to Provide the Supported Services

Assurance is a subsidiary of T-Mobile, which is a facilities-based wireless telecommunications carrier with its own switching, transport, cell sites, and associated telecommunications facilities in its proposed designated ETC service area. Thus, Assurance meets the requirement to offer service using its own facilities.

D. Assurance Will Advertise the Availability of Its Universal Service Offerings Using Media of General Distribution

Assurance will advertise the availability of, and charges for, the supported services, using media of general distribution reasonably designed to reach those likely to qualify for Lifeline services. Assurance currently offers and advertises its wireless telecommunications services,

including those offerings that include all the supported services, using radio, television, print, internet, and targeted mailings. Assurance will use the appropriate media outlets to advertise its universal service offerings in a manner consistent with applicable requirements. Some examples of Assurance's website, Facebook, and email advertisements that have been created to date are included in Exhibit 2.

Assurance also plans to employ methods specifically aimed at reaching consumers who would likely qualify for Lifeline services, including targeting resource offices, community centers, county- and state-managed facilities, and other facilities typically frequented by low-income consumers.

E. Assurance Requests Designation Throughout Its Service Area

Assurance requests designation as an ETC to correspond to its wireless coverage service area in South Dakota, including as it may change going forward, exclusive of Tribal lands. A current coverage map is attached hereto as Exhibit 3.

Assurance acknowledges its proposed ETC service area overlaps with the service areas of rural carriers in South Dakota. However, the public interest factors described below justify Assurance's designation in these ILEC service areas because it seeks ETC designation solely to utilize Universal Service Funding ("USF") to provide Lifeline service to qualified low-income consumers. Thus, the overlap into ILEC areas will not impact the high-cost portions of the USF and will not erode high-cost support from any ILEC.

Exhibit 4 is a list of ILEC wire centers that are, in whole or in part, within Assurance's proposed designated service area. While federal rules¹¹ require that the service area of an ETC conform to the service area of any rural telephone company serving the same area, the FCC has

¹¹ 47 C.F.R. § 54.207(b).

authorized forbearance from the service area conformance requirements for carriers that are seeking to provide Lifeline-only service.¹² This forbearance means that the Commission has the authority to designate Assurance in rural areas of South Dakota without concern for the service area conformance requirement.

F. Assurance Will Provide the Supported Services Throughout Its Designated Service Area

Assurance will provide the supported services throughout its designated service area consistent with all applicable requirements. Assurance will provide service on a timely basis to all consumers making a reasonable request for service where wireless coverage is available.

G. Assurance Will Comply with Service Requirements Applicable to the Support It Receives

Pursuant to 47 C.F.R. § 54.202(a)(1)(i), Assurance will comply with the service requirements applicable to the supported services that it will be offering in its designated service areas. Assurance will comply with any applicable South Dakota compliance requirements.

H. Ability to Function in Emergency Situations

The Company has the ability to remain functional in emergency situations as required by 47 C.F.R. Section 54.202(a)(2). Assurance's affiliates' facilities-based CMRS network is designed to remain functional even without external power sources, is able to re-route traffic around damaged facilities, and can manage traffic spikes that may occur in emergency situations. Exhibit 5 to this Application is T-Mobile's Business Continuity Program Summary, which demonstrates that T-Mobile has processes in place to ensure its continuing functionality in the case of emergency situations for all its operating subsidiaries, including Assurance. Exhibit 6 to this

¹² 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) ("*Lifeline and Link Up Reform Memorandum Opinion and Order*").

Application is a letter from CTIA confirming T-Mobile's completion of the recertification process for the CTIA Business Continuity/Disaster Recovery Program. Additionally, Assurance confirms that it shall abide by all FCC reporting requirements concerning outages.

I. Consumer Protection and Service Quality Standards

Assurance abides by the CTIA Consumer Code for Wireless Service. Parent company T-Mobile has been a signatory of the CTIA Consumer Code for Wireless Service since 2003 and was most recently certified as such in June 2023, as evidenced by CTIA's certification letter attached as Exhibit 7.

Assurance's Lifeline service offering meets the FCC's minimum service standard requirements. Initially, Assurance will provide, free of charge to the customer, 1000 minutes of mobile voice service, 3G or better speeds with a usage allowance of 4.5 GB.

J. Prevention of Waste, Fraud, and Abuse

Recognizing the importance of safeguarding the limited resources of the federal USF, Assurance has implemented measures and procedures to prevent duplicate Lifeline benefits from being awarded to the same household. The Company's offerings will comply with the requirements of the National Lifeline Accountability Database ("NLAD") and section 54.404 of the FCC's rules. When a prospective subscriber seeks Lifeline service, the National Verifier queries the NLAD for every enrollment to determine whether that prospective subscriber is currently receiving Lifeline service from Assurance or any other ETC, and whether anyone else living at the prospective subscriber's residential address is currently receiving Lifeline service.

Assurance has specific verification steps in place to prevent consumer fraud. Assurance will utilize its certification and verification safeguards to protect against ineligible subscribers obtaining Lifeline Service.

K. Financial and Technical Capability

Assurance is financially and technically capable of providing Lifeline-supported services as required by 47 C.F.R. §54.202(a)(4). Assurance, previously known as Virgin Mobile USA, L.P., has been providing Lifeline service to wireless customers for more than a decade. It is one of the largest Lifeline providers in the country, currently providing Lifeline service in forty (40) jurisdictions. Assurance's financial and technical capabilities to provide service are demonstrated by its strong market performance since its inception.

The senior management of Assurance has vast experience in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to the Company. Exhibit 8 provides a link to the most recent 10K filing of Assurance's ultimate parent company.

L. Granting the Application is in the Public Interest

Designation of Assurance as an ETC in South Dakota will further the public interest by providing low-income consumers with quality voice and data communication services at very affordable prices. 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.

1. Advantages of Assurance's Lifeline Service Offering

The public interest benefits of the Company's wireless Lifeline service include the convenience, portability and security afforded by mobile telephone service at no charge to the customer; the opportunity for customers to control cost by receiving a preset amount of monthly airtime at no charge; the opportunity for customers to receive both the minimum service standards for voice *and* broadband usage within the same rate plan; the ability of users to send and receive unlimited "SMS" or text messages; the ability for customers to purchase additional usage at

flexible and affordable amounts in the event that included usage has been exhausted; and access to 911 and E911 (where available) service in accordance with current FCC requirements.

Assurance's Lifeline program will provide low-income South Dakota residents with the convenience and security offered by mobile services. In today's mobile world, consumers view the portability and convenience of wireless service as a necessity, rather than a luxury. Mobile service allows children to reach their parents, wherever they may be, enables job seekers a chance to connect with potential employers, and provides end users with the ability to contact emergency service providers, regardless of location.

In addition, Assurance's Lifeline service includes mobile broadband internet access that meets the federal minimum service standards. Mobile broadband often serves as a critical tool in narrowing the digital divide by closing the homework gap for students who live in rural areas with limited access to broadband.

2. The Benefits of Competitive Choice

The benefits to consumers of being able to choose from among a variety of telecommunications service providers has long been acknowledged by the FCC. Designation of Assurance as an ETC in South Dakota will help ensure that quality services are available at "just, reasonable, and affordable rates" as envisioned in the Act. Introducing Assurance 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 enhancing a competitive marketplace as ETCs compete for a finite number of Lifeline-eligible customers. Increasing customer choice promotes competition and innovation, thus spurring other carriers to target low-income consumers with higher-value service offerings tailored to their needs, resulting in improved services to consumers. 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.

M. Conclusion

Based on the foregoing, designation of Assurance Wireless USA, L.P. as an ETC in South Dakota satisfies the requirements of Section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, Assurance respectfully requests that the Commission promptly grant this application and specifically:

- A. Designate Assurance Wireless USA, L.P. as an ETC for purposes of receiving federal universal service support for Lifeline in the State of South Dakota.
- B. Designate Assurance Wireless USA, L.P. as an ETC in the service area identified in Exhibit 3, exclusive of Tribal lands, for purposes of determining universal service obligations and receiving universal service support for Lifeline;
- C. Direct appropriate Commission staff to send the appropriate notice of the order designating Assurance Wireless USA, L.P. Mobile as an ETC to the FCC and the Universal Service Administrative Company; and
- D. Order such other relief as may be appropriate.

Respectfully submitted, this the 12th day of January, 2024.



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