

**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. TC24-002**

**ASSURANCE WIRELESS' RESPONSES TO STAFF'S SECOND DATA REQUESTS**

**Request to:** Assurance Wireless USA, L.P.  
**Request from:** South Dakota Public Utilities Commission Staff  
**Date of Request:** 2/27/2024  
**Responses Due:** 3/5/2024

**Assurance Wireless's Responses to Staff's Second Data Requests**

- 2-1. Refer to the response to DR1-2. Attachment 1 to DR 1-2 shows all wire centers and the coverage for the entire state. Provide a map that clearly shows the specific wire centers Assurance is requesting ETC for within the wireless coverage area map that has already been provided.

**Response:** As context for Assurance Wireless' response, it is important to note that it is not necessary for Assurance Wireless' proposed ETC service area in South Dakota to conform to or be defined by the boundaries of specific wire centers.<sup>1</sup> As explained in Assurance Wireless' Petition and its response to Staff DR 1-2, Assurance Wireless' proposed ETC service area is as follows: its current wireless coverage area in South Dakota (including as that coverage area may change going forward), but not in Tribal lands. In other words, Assurance Wireless' proposed ETC service area is everywhere that is colored magenta on Attachment 1 to Staff DR 1-2, minus any Tribal lands. The wire centers that overlap with that service area were intended to be shown on Attachment 1 to Staff DR 1-2, and to be identified on Exhibit 4 to Assurance Wireless' Petition.

In the course of communications with Commission Staff, Assurance Wireless became aware of a technical error causing some of the information in Attachment 1 to Staff DR 1-2 and on Exhibit 4 to Assurance Wireless' Petition to be incomplete. Assurance Wireless plans to soon submit a supplemental response that provides a clearer visual of Assurance Wireless' proposed ETC service

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<sup>1</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), ¶ 11 (forbearing from application of "service area" requirement in 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b)).

area, with Tribal lands shown. Assurance Wireless also plans to soon submit an updated version of Exhibit 4 to Assurance Wireless' Petition listing all the South Dakota wire centers that are included in Assurance Wireless' proposed ETC service area.

2-2. Refer to the confidential response to DR1-10. How many of the customers are in CenturyLink areas and how many are in rural areas?

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. The number of ACP customers served by Assurance Wireless in rural incumbent local exchange wire centers versus CenturyLink wire centers has no bearing on whether Assurance Wireless meets the requirements to be designated as an ETC.

Response: Without waiving the foregoing objection, see CONFIDENTIAL ATTACHMENT 6, which is submitted under separate cover subject to a request for confidential treatment pursuant to S.D. Admin. R. 20:10:1:41.

2-3. Refer to the response to DR1-12. Provide a direct line phone number the PUC can use to contact the Executive Response Team.

Response: The Executive Response Team's complaint intake system is set up to take complaints by email. There is not a phone number associated with the Team's complaint intake system. Once an individual is assigned to investigate and handle the complaint, that individual will be accessible by phone.

2-4. Refer to the response to DR1-13. On page 9, section I, in the second paragraph Assurance states, "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." On page 3, section II, in the third paragraph Assurance refers to "T-Mobile's award winning 5G network". Explain why Assurance will only guarantee the lesser 3G speeds for Lifeline customers as mentioned on page 9 and not the fastest and most optimal 5G speeds 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 unintelligible. Neither Assurance Wireless's Petition nor its responses to Staff's First Data Requests say anything about "guaranteeing," or refusing to "guarantee," download or upload speed.

Response: Without waiving the foregoing objection, Assurance Wireless understands this Data Request to be referring to pages 3 and 9 of its Petition. This Data Request incorrectly assumes a causal connection between two unrelated statements. On page 3 of the Petition, Assurance Wireless is describing the T-Mobile network. On page 9 of the Petition, Assurance Wireless is stating that its Lifeline service offering will meet or exceed the minimum requirements established

by the FCC. In particular, the reference to “3G or better speeds” in the description of Assurance Wireless’ Lifeline service offering on page 9 of the Petition means that the network connection will be on a 3G or better network. Neither of these statements, whether considered separately or together, say or imply anything about a “guaranteed” data speed for Assurance Wireless’ South Dakota Lifeline customers. See Assurance Wireless’ responses to Staff DR 1-13 and 1-14.

2-5. Refer to the response to DR1-27. Provide a copy of Assurance’s most recent Form 555 as filed with the FCC.

Response: Assurance Wireless has not filed a Form 555 for South Dakota because it is not yet providing Lifeline service in South Dakota. Assurance Wireless’ Form 555s for other jurisdictions for 2023 and earlier years are publicly available from the FCC at <https://www.fcc.gov/ecfs/search/search-filings>.

2-6. Assurance objected to various questions Staff considered questions relating to competition/increased consumer choice in the public interest determination. Does Assurance not believe competition/increased consumer choice should be considered within the public interest determination for non-rural areas? Should competition/increased consumer choice be considered within the public interest determination for rural areas? Provide sources if the FCC has provided any insight on the consideration of the competition/increased consumer choice component being under forbearance.

Response: Assurance Wireless takes this Data Request to be referring to Assurance Wireless’ objections and responses to Staff DRs 1-20, 1-35, 1-36, and 1-37. Assurance Wireless’ objections to these Staff DRs were not intended to indicate anything about how or whether competition or increased consumer choice should be considered as part of the public interest determination for ETC designation in rural areas. Rather, Assurance Wireless objected to those Staff DRs because they sought information that is not relevant to the public interest determination and/or that Assurance Wireless does not have.

It is well-established that competition and increased consumer choice are at the core of the public interest determination for ETC designation in rural areas.<sup>2</sup> Specifically, the FCC has stated that “granting an ETC designation may serve the public interest by providing a choice of service offerings in rural and high-cost areas” and that it is appropriate to consider “the particular advantages and disadvantages of an ETC’s service offering.”<sup>3</sup> Assurance Wireless recognized the importance of the public interest determination: at pages 10 and 11 of its Petition, Assurance Wireless explained how designating Assurance as an ETC in South Dakota would increase consumer choice, and explained the advantages of its Lifeline service offering (which include mobility, price, combined voice and broadband service, and unlimited text messages).

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<sup>2</sup> See 47 U.S.C. § 214(e)(2); *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) at ¶¶ 40-41, 44.

<sup>3</sup> *Id.* at ¶ 44.

The FCC and many state commissions have previously concluded that Assurance Wireless' designation as a Lifeline-only ETC meets the public interest standard.<sup>4</sup> For example, in 2010, the FCC found that the Lifeline service offering of Assurance Wireless' predecessor Virgin Mobile "will provide a variety of benefits to Lifeline-eligible consumers including increased consumer choice, high-quality service offerings, and mobility."<sup>5</sup> In 2013, when the Arizona Corporation Commission considered the designation of Virgin Mobile, it concluded:

The public interest benefits associated with Virgin Mobile's wireless service include larger local calling areas (as compared to traditional wireline carriers), the convenience and personal security afforded by mobile telephone service, the opportunity for customers to receive a high-value wireless plan and emergency services in accordance with FCC Rules. Additionally, ETC status will promote universal service by allowing Virgin Mobile to offer wireless service to many low-income customers who may not be able to otherwise have service. Virgin Mobile's Lifeline calling plans are designed to provide service to Lifeline consumers who, due to credit or deposit requirements, may not be able to obtain telephone service from more traditional wireline and wireless service providers.<sup>6</sup>

As these examples indicate, the public interest analysis focuses on (a) the benefits of the proposed service, and (b) the fact that the entry of an additional competitor inherently increases competitive pressure on the other carriers. Assurance Wireless is not aware of any Lifeline-only ETC public interest determination that has required the applicant to justify or explain how its service offering has different features from, or is differently priced from, that of other providers. To the extent that a price comparison is appropriate, Assurance Wireless' proposed Lifeline Service offering is free to the consumer, so it is less expensive than the prepaid service referred to in Staff DRs 1-35 and 1-36.

The fact that Assurance Wireless has been designated as a Lifeline provider in 40 jurisdictions (including its recent designation in Wyoming), as well as all the other information provided by Assurance Wireless in its Application and its responses to Staff's Data Requests, amply

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<sup>4</sup> See, e.g., *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); *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"); *In the Matter of the Petition of Virgin Mobile USA, L.P. for Designation as an Eligible Telecommunications Carrier*, Minnesota Public Utilities Commission Docket No. P-6863/M-11-314, *Order Granting Limited ETC Designation* (rel. Dec. 7, 2012).

<sup>5</sup> 2010 Order at ¶ 19.

<sup>6</sup> *In re Application of Virgin Mobile USA, L.P.'s Branded "Assurance Wireless Brought to You by Virgin Mobile" for Designation as a Wireless Eligible Telecommunications Carrier in the State of Arizona (Low Income Only)*, Docket No. T-2082yA-11-0461, *Findings of Fact, Conclusions of Law, and Order*, 2013 WL 492453 (rel. Feb. 6, 2013), ¶ 34.

demonstrates that it is in the public interest to designate Assurance Wireless as a Lifeline-only ETC in rural areas in South Dakota.

- 2-7. Refer to the response to DR1-43. If service coverage is discovered to be inadequate and “a cellspot, hot spot, or similar coverage booster” is needed, who pays for the product to improve service?

Response: In the rare case that one of Assurance Wireless’ Lifeline customers determines that coverage is inadequate, and desires a cellspot, hot spot, or similar coverage booster, the customer pays for those solutions. If the customer does not want to try one of those solutions, they can discontinue service from Assurance Wireless at no cost, and if desired, Assurance Wireless could work with the customer to try to identify another Lifeline provider’s service that met their coverage needs.

- 2-8. Refer to the response to DR1-64. If no one is able to get to a cell tower for multiple days due to blizzard conditions or other unsafe travel conditions and the power goes out, how long of battery backup is available.

Response: See CONFIDENTIAL ATTACHMENT 7, which is submitted under separate cover subject to a request for confidential treatment pursuant to S.D. Admin. R. 20:10:1:41. In addition, for those sites where additional backup power is provided by a portable generator, the run-time before refueling is generally 48-72 hours, depending on the size of the generator, although that is dependent on a number of factors. To the extent that fuel can be safely, continuously, and properly provided, such generators can effectively run indefinitely. In addition, as described in T-Mobile’s Business Continuity Plan, attached to Assurance Wireless’ Petition, T-Mobile has a fleet of Cell-On-Wheels (COWs) and Cell-On-Light-Trucks (COLTs) on standby nationwide, as well as response vehicles such as tow trucks to access areas during times of emergency. The response vehicles include snow skids, snowmobiles, and other vehicles and equipment that can allow technicians to traverse difficult terrain in winter conditions.

- 2-9. Are the headsets that Assurance offers to customers free of charge capable of connecting to the T-Mobile 5G network or are they only 3G or 4G compatible?

Response: T-Mobile takes this Data Request to be asking about the phone handsets that are available to new Assurance Wireless customers, as identified in the Company’s response to Staff DR 1-48. All of those handsets are compatible with T-Mobile’s 4GLTE network; one of them, the REVVL V+ 5G, is 5G-compatible. In addition, new customers can bring their own device—if the customer brings a 5G-compatible device then they can connect to the 5G network.

2-10. Prior to Lifeline customers using all their 4.5 GB of data, are Lifeline customers throttled down on speeds at all compared to non-Lifeline customers?

Response: No.

2-11. Twice in response to data request in DR1 Assurance states, “State Commissions do not have jurisdiction to regulate the finances of wireless carriers” as justification for an objection. Explain why 47 C.F.R. § 54.201(h) and 47 C.F.R. § 54.202(a)(4) don’t give the SD PUC authority to review anything financial related in processing this wireless Lifeline only request.

Response: 47 C.F.R. § 54.201(h) and 47 C.F.R. § 54.202(a)(4) provide that a state commission should not designate a carrier as a Lifeline-only ETC unless the carrier has demonstrated that it is financially and technically capable of providing the supported Lifeline service. Assurance Wireless has amply demonstrated that it is financially and technically capable of providing Lifeline service in South Dakota. It has the financial and technical backing of T-Mobile, which is one of the largest providers of wireless voice and broadband in the United States. Assurance Wireless is successfully providing Lifeline service in over 40 jurisdictions and has been providing Lifeline service since 2009—this is compelling evidence that Assurance Wireless has the technical and financial capability do so in South Dakota as well.

It is not correct to suggest that Assurance Wireless has not allowed the Commission “to review anything financial related.” To the contrary, Assurance Wireless has produced to Staff a copy of T-Mobile’s most recent Form 10-K, which provides extensive information about T-Mobile’s finances. As a limited partnership, Assurance Wireless does not separately publicly report financial operations. Assurance Wireless has provided the Commission with detailed information about the pricing and other terms and conditions of its proposed Lifeline offering in South Dakota.

2-12. Refer to the response to DR1-60. If Assurance will not have any offices in the state, how will Assurance handle any customer issues related to their phone use if the customer is unable to use their phone to call the Assurance helpline?

Response: Just as would be the case with any other provider of voice or broadband service, the customer can use the phone of another person to call or text with Assurance Wireless’ customer service.

## 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.

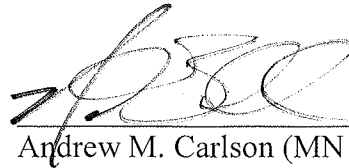
*Robert Stanchina*

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

As to objections:

Dated this \_\_\_ 5 \_\_\_ day of March, 2024



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