

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

**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)
)**

Docket No. TC24-002

Assurance Wireless's Response to the Comments of the SDTA

On January 12, 2024, Assurance Wireless L.P. ("Assurance Wireless") filed a Petition seeking designation by the South Dakota Public Utilities Commission ("Commission") as a Lifeline-only eligible telecommunications carrier ("ETC") in South Dakota. On April 5, 2024, the South Dakota Telecommunications Association ("SDTA") submitted Comments to the Commission concerning Assurance Wireless' requested designation.

In its Comments, the SDTA expressed concern about certain issues relating to Assurance Wireless' proposed Lifeline service, particularly the public interest analysis that applies when an ETC designation is sought in an area served by a rural telephone company.¹ But the SDTA did not suggest that Assurance Wireless' Petition or service is inconsistent with, or fails to meet the requirements of, any federal or South Dakota statutes or rules. The SDTA acknowledged that there may be "a place in the low-cost communications ecosystem" for wireless Lifeline service of the type offered by Assurance Wireless.² Although it recommended the imposition of certain conditions on Assurance Wireless, ultimately the SDTA did not oppose Assurance Wireless' requested designation.

¹ 47 U.S.C. 214(e)(2); 47 C.F.R. § 54.201(c); S.D.C.L. 49-31-78; A.R.S.D. 20:10:32:43.07.

² SDTA Comments at 3.

Assurance Wireless appreciates the opportunity to clarify issues presented in the SDTA's Comments, and respectfully submits this Response. This Response reaffirms that it is in the public interest to designate Assurance Wireless as a Lifeline-only ETC in South Dakota.

I. **OVERVIEW OF THE PUBLIC INTEREST DETERMINATION**

Much of the area within South Dakota where Assurance Wireless seeks ETC designation is served by rural telephone companies. As to these areas, Assurance Wireless agrees with the SDTA that the Commission "must evaluate whether the Assurance ETC application is in the 'public interest.'"³ This public interest determination is required by both federal and South Dakota law.⁴

On the federal level, the public interest analysis has traditionally focused on competition and increased consumer choice.⁵ 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."⁶

These considerations overlap with the considerations stated in the Commission's rule specifying the public interest issues the Commission should consider:

The commission shall consider the benefits of increased consumer choice, the impact of multiple designations on the universal service fund, the unique advantages and disadvantages of the applicant's service offering, commitments made regarding the quality of the telephone service provided by the applicant, and the applicant's ability to provide the supported services throughout the designated service area within a reasonable time frame. In addition, the commission shall consider whether the designation of the applicant will have detrimental effects on the provisioning of universal service by the incumbent local exchange carrier. If an applicant seeks designation below the study area level of a rural telephone

³ SDTA Comments at 5.

⁴ 47 U.S.C. 214(e)(2); 47 C.F.R. § 54.201(c); S.D.C.L. 49-31-78; A.R.S.D. 20:10:32:43.07.

⁵ *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.

⁶ *Id.* at ¶ 44.

company, the commission shall also conduct a creamskimming analysis that compares the population density of each wire center in which the applicant seeks designation against that of the wire centers in the study area in which the applicant does not seek designation. In its creamskimming analysis, the commission shall consider other factors, such as disaggregation of support pursuant to 47 C.F.R. § 54.315 (January 1, 2006) by the incumbent local exchange carrier.⁷

Under both the federal analysis and the South Dakota rule, there can be little question that designation of Assurance Wireless is in the public interest.

First, designation of Assurance Wireless as a Lifeline-only ETC in South Dakota will result in increased consumer choice, because to date, Assurance has not been offering Lifeline service in South Dakota, and the designation will allow Assurance to do so. In other words, Assurance Wireless' Lifeline service will provide qualifying South Dakota customers an alternative service option that is not otherwise currently available to them. Increased competition in rural areas provides incentives to other carriers to achieve new operating efficiencies and introduce additional choices, higher quality, and better value to their customers. In addition, as discussed in Assurance Wireless' Petition, Assurance has been serving low-income consumers in South Dakota through the FCC's Affordable Connectivity Program ("ACP"). As that program is winding down, designation of Assurance Wireless will allow its current South Dakota consumers the choice of staying with Assurance, instead of being forced to use another carrier.

There are a number of unique advantages to Assurance Wireless' service. First and foremost is mobility. The FCC has recognized the unique advantages of mobility in rural areas, stating:

[T]he mobility of telecommunications assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other critical community locations. In addition, the availability of a wireless universal

⁷ A.R.S.D. 20:10:32:43.07.

service offering provides access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities.⁸

Moreover, Assurance Wireless' Lifeline service includes a free smartphone, unlimited texts, voicemail, and other services at no additional charge. At present, there are not very many options in South Dakota for Lifeline service that (a) is provided at no cost to the customer; (b) allows new customers to bring their own device, but also includes a free network-compatible smartphone if desired; (c) is mobile; (d) includes both voice and broadband usage within the same plan; (e) includes unlimited texting; and (f) allows consumers to purchase additional usage, if desired, at flexible and affordable amounts. Moreover, unlike re-sellers who use the networks of T-Mobile or other national wireless carriers, Assurance Wireless' provision of Lifeline in South Dakota will be supported by T-Mobile's award-winning customer service.⁹ Unlike some carriers, Assurance Wireless does not charge a cancellation or de-enrollment fee or penalty.¹⁰ Taken as a whole, the mobility and other attributes of Assurance Wireless' service represent a significant advantage of Assurance Wireless' Lifeline service as compared to most of the other Lifeline service offerings available in South Dakota.

The South Dakota rule requires consideration of "commitments made regarding the quality of the telephone service provided by the applicant." Assurance Wireless has committed to provide Lifeline service that meets or exceeds the minimum service standards established by the FCC for Lifeline. Assurance Wireless' Lifeline service in South Dakota will be provided through T-Mobile's network, which has robust coverage and capacity throughout much of South Dakota, including 5G service in many areas.¹¹

⁸ See *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 03-338 (rel. Jan. 22, 2004), at ¶ 29 ("Virginia Cellular").

⁹ See <https://www.t-mobile.com/news/un-carrier/2024jd-power-customer-care>.

¹⁰ Assurance Wireless Response to Staff Data Request 1-40.

¹¹ See <https://www.tmobile.com/coverage/coverage-map>.

The South Dakota rule asks the Commission to consider “the applicant’s ability to provide the supported services throughout the designated service area within a reasonable time frame.” Assurance Wireless will be able to provide Lifeline service throughout its requested ETC service area in South Dakota by the end of the month following the month in which ETC designation is granted.

The South Dakota rule asks the Commission to “consider whether the designation of the applicant will have detrimental effects on the provisioning of universal service by the incumbent local exchange carrier.” Designation of Assurance Wireless as a Lifeline-only ETC in South Dakota should not have any adverse effect on the ability of South Dakota ILECs to provide universal service. Commission Staff reached the same conclusion, and noted that Assurance’s designation was unlikely to have any material effect on the Universal Service Fund.¹² Assurance’s ETC designation will result in increased competition in the provision of Lifeline service in South Dakota, but that is not a “detrimental” effect on universal service. Indeed, qualifying consumers will benefit from the increased choice in Lifeline service providers.

Finally, the South Dakota rule asks the Commission to consider the possibility of “creamskimming.” In the ETC context, “creamskimming” refers to the concern that a competitor will seek to serve only the low-cost, high-revenue customers in a rural telephone company’s study area, thus availing itself of a disproportional amount of universal service funding.¹³ As Commission Staff recognized in its Memo,¹⁴ a creamskimming analysis is neither necessary nor applicable in the context of Assurance Wireless’s ETC application. First, Assurance Wireless only seeks ETC designation in South Dakota as a Lifeline-only ETC. Thus, it is not competing with

¹² Staff Memo at 10.

¹³ See *Virginia Cellular*, ¶ 32.

¹⁴ Staff Memo at 10.

the incumbent carrier for “high-revenue” customers; rather, it will only be serving qualifying low-income customers. In addition, creamskimming cannot occur with Lifeline-only ETCs, because the amount of Lifeline support received by a Lifeline-only ETC has no connection to the cost of serving the area. Rather, Lifeline support is a fixed amount, provided only on a customer-specific basis. For these reasons, the FCC has explained, “Creamskimming is not a public-interest consideration in the Lifeline context, whether the competing carrier is offering wireless or wireline service.”¹⁵

Assurance Wireless is currently designated as an ETC to provide Lifeline services in over 40 states and the District of Columbia.¹⁶ It has been providing Lifeline service in Minnesota and many other states for more than a decade. Assurance Wireless’ extensive experience strongly supports the determination that it would be in the public interest for the Commission to designate Assurance Wireless as a Lifeline-only ETC in South Dakota. The Commission previously designated wireless resellers Budget Mobile and enTouch as Lifeline-only ETCs in South Dakota.¹⁷ Assurance Wireless submits that as a facilities-based carrier, with a long history of

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

¹⁶ Since its South Dakota petition was filed in January, Wyoming, Vermont, and Hawaii have designated Assurance Wireless as a Lifeline-only ETC. *In the Matter of the Application of Assurance Wireless USA, L.P. for Designation as an Eligible Telecommunications Carrier*, Wyoming Public Service Commission Docket No. 62077-1-RA-24 (Record No. 17484), *Order Granting Designation* (rel. March 11, 2024); *Petition of Assurance Wireless USA, L.P. for designation as an Eligible Telecommunications Carrier in the State of Vermont*, Case No. 24-0147-PET, *Final Order Approving Designation as an Eligible Telecommunications Carrier* (rel. March 21, 2024); *In the Matter of the Petition of Assurance Wireless USA, L.P. For Designation as an Eligible Telecommunications Carrier in the State of Hawaii for the Limited Purpose of Providing Lifeline Service to Qualifying Customers*, Docket No. 2024-00009, *Decision and Order* No. 40727 (rel. April 19, 2024).

¹⁷ See *In the Matter of the Application of Budget PrePay, Inc. DBA Budget Mobile, for Designation as a Lifeline-only Eligible Telecommunications Carrier in Non-Rural Areas*, TC12-125, *Order Granting Designation as a Lifeline-only Eligible Telecommunications Carrier* (rel. Sept. 24, 2012); *In the Matter of the Application of Boomerang Wireless LLC dba enTouch Wireless for Designation as an Eligible Telecommunications Carrier*, TC13-035, *Order Granting Eligible Telecommunications Carrier Designation in Non-Rural Areas* (rel. April 28, 2017).

successful provision of Lifeline service, it is amply qualified to be designated as a Lifeline-only ETC.

Nevertheless, the SDTA expresses concern about a number of issues that it considers to be part of the public interest determination. Assurance Wireless now addresses the SDTA's concerns.

II. **SOUTH DAKOTA CONSUMERS UNDERSTAND THE ADVANTAGES OF MOBILE SERVICE AND ASSURANCE WIRELESS' LIFELINE OFFERING**

The SDTA argues with various statements made by Assurance Wireless about the benefits of Assurance's proposed Lifeline service,¹⁸ and argues that consumers "only benefit from choice when they understand what they are choosing between."¹⁹ The SDTA's arguments overemphasize the alleged limitations of wireless service while ignoring its many benefits.

It is true, as the SDTA mentions, that each household can legally have only one Lifeline subscription, that the amount of minutes and data included in Assurance's Lifeline plan is limited, and that wireless coverage can be affected by weather and terrain.²⁰ But the SDTA ignores the benefits of mobile service. For decades now, consumers have expressed their preference for mobile service: approximately 97% of Americans have a cellphone of some kind,²¹ and the percentage of Americans that live in a household *without* a landline has increased to approximately 73%.²² In South Dakota, consumer demand for wireless service is even a bit higher: approximately 98.5% of South Dakotans subscribe to a wireless plan.²³ Accordingly, South Dakota consumers are well aware of the pros and cons of both wireless service and terrestrial service, and the wireless service reliability issues raised by SDTA are apparently not a dealbreaker for the 98.5% of South

¹⁸ SDTA Comments at 4.

¹⁹ SDTA Comments at 8.

²⁰ SDTA Comments at 4.

²¹ Pew Research Center, *Demographics of Mobile Device Ownership and Adoption in the United States* (Jan. 31, 2024), <https://www.pewresearch.org/internet/fact-sheet/mobile/>.

²² Andrew Van Dam, *Barely a quarter of Americans still have landlines. Who are they?*, Washington Post, June 23, 2023, <https://www.washingtonpost.com/business/2023/06/23/landline-telephone-holdouts/>.

²³ See <https://www.ctia.org/the-wireless-industry/map/4g> (South Dakota).

Dakotans who already subscribe to wireless service. Consumers know that wireless service allows them to communicate and get information while on the go—whether by voice, internet, through social media, or by texting. Consumers’ ever-growing preference for wireless service indicates that the SDTA’s concerns about the limitations of wireless service are not shared by the overwhelming majority of consumers in South Dakota.

In addition, Assurance Wireless’ website includes detailed information explaining what is included in its Lifeline service offering, how the Lifeline program works, and answering other consumer questions.²⁴ The descriptions of Assurance Wireless’ plans on its website now include the FCC’s “Broadband Consumer Labels,”²⁵ providing consumers with additional clarity about the details of the broadband service included in Assurance Wireless’ service offering.²⁶

The SDTA alleges that Assurance Wireless “refused to answer” Staff data requests relating to the benefits or limitations of Assurance Wireless’ service offering.²⁷ Assurance Wireless denies this allegation; to the contrary, Assurance Wireless has provided more than ample information in its responses. As to a few issues where Staff’s requests concerned issues not applicable to Assurance Wireless or Lifeline service, Assurance Wireless’s responses provided a detailed analysis and explanation of each issue. Assurance Wireless’ objections to a handful of Staff data requests do not mean that Assurance Wireless was nonresponsive—rather, after providing any objections, Assurance Wireless answered each request to the best of its ability. Moreover, Assurance Wireless has participated in several calls with Staff to provide additional context and

²⁴ See <https://www.assurancewireless.com/>, including <https://www.assurancewireless.com/lifeline-services/what-lifeline>, <https://www.assurancewireless.com/help-center/faqs>, and <https://coverage.assurancewireless.com/t-mobile.html>.

²⁵ See <https://www.fcc.gov/broadbandlabels>.

²⁶ The Broadband Consumer Labels are prominently available at <https://www.assurancewireless.com/plans>.

²⁷ SDTA Comments at 7.

detail. Staff's Memo does not identify any data requests that Assurance Wireless "refused to answer."

The SDTA expresses concern that Assurance Wireless will be "relying wholly, or in a significant degree" on third-party marketing agents to sell Lifeline in South Dakota.²⁸ This statement is unfounded. In its response to Staff Data Request 1-38, Assurance Wireless acknowledged it will use third-party marketing agents, but that does not mean that it will be relying "wholly, or in a significant degree," on such agents. To the contrary, Assurance Wireless anticipates that third-party marketing agents will be at most a minor part of its outreach strategy in South Dakota. And, there is no basis for SDTA's insinuation that use of third-party marketing agents will cause consumers to be uninformed about their Lifeline service. Assurance Wireless requires third-party marketing agents to follow a detailed protocol, including agreement to the terms and conditions of service, to ensure that prospective customers are informed about Lifeline and the details of the Lifeline service offering.²⁹

In sum, the SDTA's concerns about consumers not understanding the pros and cons of wireless service, or otherwise being uninformed about Assurance Wireless' Lifeline service, are exaggerated. The Commission has been provided, and customers will be provided, ample information to understand Assurance Wireless' Lifeline service.

III. **ASSURANCE WIRELESS' LIFELINE SERVICE IS AFFORDABLE AND INCLUDES AN ADEQUATE AMOUNT OF DATA**

The SDTA argues that Assurance Wireless' Lifeline service offering is not affordable, has an insufficient data plan, and is not comparable to incumbents' service offerings.³⁰ But SDTA's arguments are based on incorrect assumptions, and ignore the advantages of Assurance's service.

²⁸ SDTA Comments at 8.

²⁹ Assurance Wireless Response to Staff Data Request 1-39.

³⁰ SDTA Comments at 5, 9-13.

Assurance Wireless' Lifeline service offering is free to qualifying consumers. This is of course the lowest, and therefore most affordable, possible price. Assurance Wireless' Lifeline service includes 4.5 GB of data each month, 1,000 free voice minutes, unlimited texting, a free smartphone, and other related services such as voicemail. Considered as a whole, this is a lot of service to receive for free. Nonetheless, the SDTA argues that Assurance Wireless' service is actually unaffordable, because if a consumer purchased a large amount of additional data each month, the total cost would be thousands of dollars. First, this argument ignores the reality that by definition, consumers who are eligible for Lifeline service have limited funds and thus are very unlikely to purchase large amounts of add-on services. A very small percentage of Assurance Wireless' current subscribers purchase add-on services.³¹ The concern stated by the SDTA—that consumers would have to spend thousands of dollars per month to get useful service—is greatly overstated.

The SDTA seems to be arguing that for Assurance Wireless' Lifeline service to be comparable to terrestrial Lifeline service as offered by the SDTA's members, Assurance Wireless' Lifeline must include the same amount of monthly data. The FCC, which sets the minimum standards for Lifeline service, has carefully considered this issue and has rejected the SDTA's contention. The FCC's goal in establishing a minimum data capacity for mobile Lifeline service is "to balance the dueling goals of access and affordability, ensuring consumers have access to the robust service needed to participate in modern society while also ensuring consumers are able to afford such access."³² The FCC decided in July 2023 to keep the wireless Lifeline minimum data standard at 4.5 GB of data each month because it was concerned about "potential cost barriers that

³¹ Assurance Wireless Confidential Response to Staff Data Request 1-27.

³² *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Dockets No. 11-42 et al, *Order*, DA 23-589 (rel. July 7, 2023) at ¶ 15.

an increase [in the minimum data amount] would bring,” as well as “data showing that Lifeline subscribers may not benefit from an increase in the usage allowance.”³³

In addition, the SDTA’s argument ignores one of the most important advantages of Assurance Wireless’ Lifeline service: mobility. When an incumbent local exchange carrier provides terrestrial-based Lifeline service, that service may include unlimited voice calls and a larger data minimum, but usually does not include texting and is only available at a fixed location. The price for terrestrial Lifeline service, even after application of the Lifeline discount, is typically at least \$10-\$15 per month. In contrast, Assurance Wireless’ Lifeline service offering includes an ample amount of voice service, unlimited texting, and is mobile. In addition, Assurance Wireless’ website has a map that allows a potential Lifeline subscriber to see whether their area is served;³⁴ terrestrial service generally does not have this convenience.

IV. **ASSURANCE WIRELESS’ CUSTOMER SERVICE IS AN IMPORTANT ADVANTAGE**

The SDTA argues that Assurance Wireless’ customer service should be considered a disadvantage.³⁵ Its arguments are unpersuasive. First, as to the process for initiating service, Assurance Wireless’ experience is that many consumers prefer to sign up online. Just as with shopping, banking, and other services, consumers (especially younger ones) increasingly consider online transactions to be more convenient than traveling to a retail location. In contrast, installation of terrestrial service requires waiting for a service technician to arrive at the service location. Assurance Wireless’ service does not have that inconvenience. As mentioned above, Assurance Wireless may use third-party marketing agents to some extent in South Dakota, but as described

³³ *Id.* at ¶ 14. The 4.5 GB data minimum will remain in place until December 1, 2024. *Id.*, ¶ 2. If the FCC increases the data minimum, Assurance Wireless will revise its Lifeline offering in South Dakota to conform to whatever minimum standards the FCC sets.

³⁴ See <https://coverage.assurancewireless.com/t-mobile.html>.

³⁵ SDTA Comments at 12-13.

in detail in the responses to Staff’s Data Requests, the marketing agents are required to ensure that new consumers are fully apprised of the details of Lifeline service. There is no basis for the SDTA’s suggestion that Assurance Wireless or its agents will sign consumers up for Lifeline without identifying the amount of data that is included; to the contrary, the amount of data included in the Lifeline plan has always been clearly disclosed, and has recently become even more prominent due to the FCC’s new Broadband Consumer Labels. SDTA argues “consumers must be given the opportunity to cancel service if the wireless service is not meeting his or her needs, without high pressure sales tactics and without penalties or fees.”³⁶ This issue should not be a concern for the Commission: if a consumer wants to discontinue service, doing so is very simple, and there is no cancellation fee.³⁷

When Assurance Wireless customers have questions or concerns, they have access to T-Mobile’s best-in-class customer-service.³⁸ Currently, Assurance Wireless’ affiliates T-Mobile and Metro by T-Mobile receive very few complaints arising from service in South Dakota, especially as the T-Mobile network in South Dakota has expanded rapidly since T-Mobile’s 2020 merger with Sprint. There is no basis for SDTA’s suggestion that Assurance Wireless has provided insufficient information to the Commission to allow the Commission to assist with customer complaints.³⁹ First, Assurance Wireless confirmed to the Commission that it agrees to cooperate with the Commission to resolve consumer complaints, and described how customer complaints that it receives are processed.⁴⁰ In addition, Assurance Wireless provided the mailing address, and direct email address, that the Commission can use to contact Assurance Wireless’ Executive

³⁶ SDTA Comments at 15.

³⁷ Assurance Wireless responses to Staff Data Request

³⁸ See <https://www.t-mobile.com/news/un-carrier/2024jd-power-customer-care>.

³⁹ SDTA Comments at 15.

⁴⁰ Assurance Wireless responses to Staff Data Request 1-22, 1-23.

Response Team if necessary.⁴¹ This is the most direct and efficient way available to engage with the Executive Response Team. Finally, two affiliates of Assurance Wireless, T-Mobile Central and Metro by T-Mobile, have been operating in South Dakota for several years and neither has ever been cited for inadequate responsiveness to complaints directed to it by the Commission. The same customer service teams will be responsible for responding to any complaints relating to Assurance Wireless' service. The SDTA's concerns are unwarranted.

V. **THE HIGH QUALITY OF ASSURANCE WIRELESS' SERVICE IS ANOTHER ADVANTAGE**

The SDTA seeks to cast doubt on the "quality of service" that Assurance Wireless will provide, emphasizing that wireless service varies depending on circumstances such as the weather and that data service may be slowed if necessary.⁴² Again, the SDTA's concerns are exaggerated.

T-Mobile's network provides high-quality voice calls and its 5G network (which covers substantial parts of South Dakota) allows for data to travel at a very high speed. As noted above, consumers understand that wireless coverage can vary, but their ever-increasing choice to "cut the cord" indicates that consumers have concluded that the advantages of mobile service outweigh its limitations.

SDTA asks how Assurance Wireless traffic will be prioritized as compared to other traffic on the T-Mobile network.⁴³ First, most of the time and for most South Dakota potential Lifeline consumers, traffic prioritization should not be a concern—prioritization is not perceivable unless the network is heavily loaded in relation to available capacity. Assurance Wireless provides Lifeline service in 40 jurisdictions, and its Lifeline subscribers in these other jurisdictions very rarely express concern, or complain, about their voice or data service being affected by prioritization. As

⁴¹ Assurance Wireless responses to Staff Data Request 1-12.

⁴² SDTA Comments at 13-14.

⁴³ SDTA Comments at 14, 17-18.

a practical matter it is unlikely that Assurance's South Dakota Lifeline consumers will experience or perceive material prioritization.

If and when prioritization may occur, emergency service is prioritized over voice calls, and voice calls are prioritized over data service. Rarely, if necessary, data service for certain T-Mobile customers is prioritized over data service for Assurance Wireless customers. The details of how and when this occur are explained on Assurance Wireless' website.⁴⁴ On the issue of data prioritization, as on other issues throughout its Comments, the SDTA's concern is disproportional to the real-world impact for consumers.

VI. **ASSURANCE WIRELESS' PROPOSED LIFELINE-ONLY ETC DESIGNATION HAS NO BEARING ON FEDERAL AND STATE BROADBAND GRANT PROGRAMS**

The SDTA notes that federal and state authorities are in the midst of administering grant programs that may require awardees to participate in Lifeline or take other steps to enhance service affordability.⁴⁵ But tellingly, the SDTA does not explain what, if any, difference the activity in these grant programs should make as to Assurance Wireless' request for ETC designation. The two are essentially unrelated: Assurance Wireless' proposed Lifeline-only ETC designation will Assurance Wireless to provide a service offering, using already-existing facilities, in South Dakota; whereas the general purpose of the broadband grant programs is to build new facilities to provide broadband to areas that are not currently served. Assurance Wireless is not aware of, and the SDTA has not provided any explanation of, any detrimental impact that Assurance Wireless' proposed ETC designation will have on any aspect of any broadband grant programs.

⁴⁴ See <https://www.assurancewireless.com/legal/net-neutrality>.

⁴⁵ SDTA Comments at 6.

VII. **THE SDTA’S INFORMATION ABOUT THE UNIVERSAL SERVICE FUND RAISES NO CONCERNS**

The SDTA’s Comments include a lengthy description of how SDTA members participate in and benefit from the FCC’s universal service programs, the Affordable Connectivity Program (ACP), and other federal programs.⁴⁶ But notably absent from the SDTA’s Comments is any suggestion that designation of Assurance Wireless as a Lifeline-only ETC in South Dakota will have any impact on the Universal Service Fund, or will have any detrimental impact on the SDTA’s members. The Commission can conclude that as to this public interest issue, the SDTA has not identified any concerns that require attention.

VIII. **ASSURANCE WIRELESS HAS CLARIFIED ITS ABILITY TO PROVIDE SERVICE THROUGHOUT ITS REQUESTED SERVICE AREA**

The SDTA argues that Assurance Wireless’ original proposed service area was insufficiently defined on the map included with its Petition.⁴⁷ However, Assurance Wireless has since taken a different approach—using zip codes to identify its proposed ETC service area—and has clarified that if it seeks to expand its ETC service area in South Dakota, it will come back before the Commission to make that request.⁴⁸ The SDTA’s concerns about Assurance Wireless’ proposed ETC service area have been addressed to Staff’s satisfaction.⁴⁹

IX. **THE SDTA’S PROPOSALS ARE UNNECESSARY**

The SDTA encourages the Commission to “consider” collecting additional information regarding data prioritization, how consumers are informed about broadband data speed and limits, and how third-party marketing agents will be used.⁵⁰ This information need not be collected: SDTA’s questions about these issues are generally without basis; all of Staff’s questions have been

⁴⁶ SDTA Comments at 8-9.

⁴⁷ SDTA Comments at 15-17.

⁴⁸ Assurance Wireless Supplemental Responses to Staff Data Requests and April 24, 2024 Clarification.

⁴⁹ Staff Memo at 3.

⁵⁰ SDTA Comments at 17-18.

answered and through this Response, Assurance Wireless has provided ample information on these issues.

The SDTA also encourages the Commission that if it grants Assurance Wireless’ requested ETC designation, it should impose seven compliance requirements on Assurance Wireless. All these requirements are unwarranted. Most of the SDTA’s proposed compliance requirements are unnecessary because they are already the status quo:

SDTA Proposed Compliance Condition	Assurance Wireless Response
1. The requested ETC designation should be limited to Assurance Wireless, and does not extend to any other service offerings from T-Mobile or T-Mobile Affiliates.	Assurance Wireless has not asked for the ETC designation to extend to any other T-Mobile entity. Assurance is not aware of a way that that could occur under current law.
3. Assurance Wireless must provide new customers with notice that they may cancel service at any time, with no penalties or fees.	Assurance Wireless has already explained that there is no cancellation fee, and it already provides notice to consumers that they may cancel service at any time. ⁵¹
4. The Commission should be a resource for consumers and Assurance Wireless should provide a direct contact for the Commission to contact an Assurance representative.	The Commission is already a resource in this manner and Assurance Wireless has provided it with a direct contact. ⁵²
5. Assurance Wireless’ ETC service area should be limited to specific identified areas, shown on a detailed map in the docket.	This has already been done. ⁵³
6. Assurance Wireless cannot modify its ETC service area without prior Commission approval.	Assurance Wireless has already confirmed this. ⁵⁴

Assurance Wireless objects to the SDTA’s second proposed compliance condition—notification to the Commission if Assurance’s “corporate structure or ownership changes and it no longer has beneficial use of T-Mobile infrastructure specifically as a T-Mobile affiliate.” This requirement is unnecessary, because once designated as a Lifeline-only ETC, Assurance Wireless

⁵¹ See <https://www.assurancewireless.com/legal/terms-and-conditions>.

⁵² See Assurance Wireless Response to Staff Data Request 1-12.

⁵³ See Assurance Wireless Supplemental Responses to Staff Data Requests and April 24, 2024 Clarification.

⁵⁴ *Id.*

is obligated to continue providing Lifeline and complying with applicable ETC requirements regardless of changes in its corporate ownership.

Assurance Wireless also objects to the SDTA's final compliance condition—the submission of an annual report. The SDTA first proposes that this annual report would include a record of all Assurance Wireless Lifeline customers in South Dakota that discontinue service due to inadequate or unreliable cellular service, or due to insufficient minutes or data. There is no way that such a report could be generated or submitted by Assurance Wireless—a customer discontinuing service has no obligation to explain to Assurance Wireless why they did so, and Assurance Wireless has no way to find out why any customer cancelled service. The next item in the SDTA's proposed report is “a record of all Lifeline consumer complaints regarding coverage or available data.” If such complaints are made to the Commission, the Commission will have that record—no annual report is necessary. Assurance Wireless is confident that there will be few such complaints. The final item in SDTA's proposed report is a “summary of any change to T-Mobile infrastructure that may impact the services available in South Dakota or the quality-of-service South Dakota consumers experience.” As a preliminary matter, such a report is not needed, because it would merely reflect T-Mobile investing millions of dollars each year to improve its South Dakota network. More importantly, the Commission has no legal jurisdiction over T-Mobile or its network, and so there would be no basis for such a requirement. The Commission should reject SDTA's proposed compliance conditions.

X. CONCLUSION

Assurance Wireless respects and appreciates the SDTA, its members, and its members' concerns. That said, in its Comments, the SDTA uses speculative questions and unfounded allegations to create unnecessary doubt about Assurance Wireless' Lifeline service. Assurance Wireless has provided detailed information to Staff and the Commission that demonstrates that the

public interest would be served by granting Assurance Wireless' petition. By designating Assurance Wireless as a Lifeline-only ETC in South Dakota, the Commission will ensure that the convenience and utility of wireless voice and broadband Lifeline service will be more broadly available to South Dakotans.

Dated this 6th day of May, 2024



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