

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

IN THE MATTER OF THE APPLICATION OF)	
ASSURANCE WIRELESS USA L.P. TO EXPAND ITS)	
ELIGIBLE TELECOMMUNICATIONS CARRIER)	
DESIGNATED SERVICE AREA TO INCLUDE)	Docket No. TC25-003
TRIBAL LANDS)	
)	

SDTA Comments

The South Dakota Telecommunications Association (SDTA) respectfully requests the South Dakota Public Utilities Commission (Commission) consider the following comments when ruling on the Assurance Wireless USA, L.P. (Assurance or Applicant) filing in this matter. On or about May 5, 2025, the Applicant requested the Commission expand its existing designation as an ETC, for the purpose of offering Lifeline, in the State of South Dakota to qualifying customers on tribal land.

Introduction

Assurance previously applied for and was granted ETC designation “*in rural and nonrural areas, exclusive of tribal lands, in South Dakota for the purpose of receiving federal low-income universal service support for prepaid wireless Lifeline services*” in docket TC24-002.¹ The Commission’s Order was conditioned upon the representations and commitments made by Assurance both orally and in writing in the docket.²

SDTA filed written comments and made oral arguments in TC24-002. See SDTA’s filed comments attached as Exhibit A. Many of the issues raised by SDTA in the 2024 Assurance docket

¹ May 15, 2024, Commission Order in TC24-002.

² Id

remain relevant in this 2025 Assurance docket. SDTA will summarize the relevant issues herein and refers the Commission to its more robust briefing and argument of the issues in TC24-002 (Exhibit A).

SDTA's members provide service throughout many tribal areas in South Dakota. All SDTA member companies have received ETC designations and offer Lifeline services to their qualifying low-income customers throughout their entire service area, including tribal areas. SDTA member companies are, therefore, aware of the unique challenges in serving tribal locations. Most South Dakota tribal areas are extremely rural and isolated. Many tribal areas are also economically strained and suffer from housing shortages.³ Unfortunately, SDTA member companies have also become aware of predatory business practices that some businesses utilize due to the vulnerability created by these challenging circumstances in tribal areas. To be clear, SDTA is not accusing Assurance of engaging in said practices. However, Assurance does not have prior experience in serving tribal areas and SDTA takes this opportunity to express its interest in protecting its customers and service areas.

Summary: Concerns Presented in TC24-002 that Remain Relevant

SDTA reasserts much of what it raised in TC24-002. First, it is necessary to acknowledge the limits that exist for a wireless Lifeline product. The following limitations exist for all wireless Lifeline consumers everywhere:

- Each household is entitled to only one Lifeline subscription. A wireless Lifeline product cannot easily serve the needs of more than one person. When the Lifeline

³ KFF, The Independent Source for Health Policy, Research, Polling and News reports the percentage of the American Indian population in South Dakota experiencing poverty to be 45.6% in 2023. [Poverty Rate by Race/Ethnicity | KFF](#). Many of the South Dakota counties experiencing “persistent poverty” as defined and listed by the US Census Bureau are located within reservation boundaries. [Persistent Poverty in Counties and Census Tracts](#)

wireless phone is away from the home, other members of the household do not have access to communications services. Alternatively, a wired Lifeline service can and does serve the whole household.

- The wireless plans that Assurance offers are limited by available minutes, available data and speed. If minutes and/or data have expired, the consumer and his/her family will lose connectivity with the world and each other. A wired connection, on the other hand, has far greater available minutes/data and is often limitless.
- The reliability of the wireless product Assurance offers will be impacted by weather, network congestion, terrain, and tower location in proximity to the customer. It is not accurate to “sell” a customer on 100% reliability all the time regardless of location. That is simply not the science of wireless communication. A wired connection, on the other hand, is more consistently reliable at the service location.
- The data plans Assurance offers are not robust enough to serve a family’s needs. Assurance’s Lifeline offers 4.5 GB of data in non-tribal land and 6 GB of data on tribal land.⁴ According to Open Vault, as of 1st quarter 2025, the average household consumes 663 GB of broadband data per month.⁵ A wired Lifeline connection, like those that exist throughout all SDTA member service areas, better meet the data needs of most individuals and families.

Considering the above limitations, the Commission must make a public interest finding.

SDTA 20:10:32:43.07. The required considerations are: (i) the benefits of increased consumer choice, (ii) the impact of multiple designations on the universal service fund, (iii) the unique advantages and disadvantages of the applicant's service offering, (iv) commitments made regarding the quality of the telephone service provided by the applicant, (v) the applicant's ability to provide the supported services throughout the designated service area within a reasonable time frame and (vi) whether the designation of the applicant will have detrimental effects on the provisioning of universal service by the incumbent local exchange carrier. SDTA reaffirms and restates the positions it took in TC24-002 and summarizes them below.

⁴ On July 1 2025 the FCC Wireless Competition Bureau extended the waiver to increase the Lifeline minimum service standard for mobile broadband capacity. WC Docket No 11-42. [DA-25-567A1.pdf](#)

⁵OpenVault’s Broadband Insights Report for the first quarter of 2025, [OVBI Q125.pdf](#)

Increased Consumer Choice

Consumers only benefit from choice when they understand what they are choosing between. In the case of mobile Lifeline, the consumer is choosing individual device mobility over data quantity, family usage, and in some cases reliability. Concerns as to whether consumers will be given sufficient information to reasonably determine the actual capabilities and value of the Assurance prepaid wireless service prior to purchase are heightened given Assurance's plan to use third-party marketing agents to sell its services in South Dakota tribal areas.⁶ With that said, SDTA appreciates Assurance's transparency regarding its third-party outreach program.⁷

Although SDTA's request for a condition that requires an annual report was denied in TC24-002, SDTA continues to believe Consumers will benefit if a wireless Lifeline ETC company is required to disclose information, annually, to the Commission. Consumers will benefit if the Commission collects information on an annual basis that could indicate whether consumers are provided with misleading or insufficient information prior to initiating service.

Unique advantages and disadvantages of the applicant's service offering

The services offered by the applicant are the "minimum service standards" imposed by the FCC rules and orders for "Mobile Broadband." The minimum standards regarding data quantity are far lower than necessary for users to participate in the economy, online education or healthcare. The very limited data provided to Lifeline users remains a disadvantage of the Assurance service offerings.

Certain aspects of Assurance's plans relating to customer service also present concerns and seem likely to operate as a disadvantage. Assurance enrollments are done online, on the

⁶ Assurance Answers to SDTA Data Request 9, 11, 12, 14, 15

⁷ Assurance Confidential Responses to SDTA Data Requests

phone or with third party agents. Assurance will not have physical locations in South Dakota and as such, consumers cannot get help or support other than through remote options.

Commitments made regarding quality of service

The concerns raised by SDTA in TC24-002 remain. Consumers must be made aware of the capacity and other possible quality-of-service limitations that are very likely to come with the Assurance product. When consumers choose a Lifeline wireless product, they give up the opportunity for a wired Lifeline product that does not share the same quality-of-service problems. Consumers must be given the opportunity to cancel service if the Assurance wireless Lifeline service does not meet their needs. Consumers should not be restricted by a contract, and should not be subject to high pressure sales tactics, penalties or fees. Assurance has committed to this as a cancellation policy. It should be held to that commitment.

Ability to provide the supported services throughout the designated service area

SDTA appreciates Assurance's recognition that the level of service and signal reliability is limited in certain circumstances.⁸ This is different and more appropriate than Assurance's original approach in TC24-002 and warrants recognition.

Impact on Universal Service Fund

Assurance is not seeking high-cost support funds with this application. However, extending ETC certification to wireless providers for Lifeline only purposes does have an indirect impact on the fund. The Lifeline program assists with service affordability in SDTA service areas in two ways. First, the programs provide a direct discount to end users for their voice and/or broadband services. In addition, they increase consumer adoption of these services on a company-wide basis resulting in a second "affordability" benefit (in the form of a reduced

⁸ Assurance Answer to SDTA Data Request 4

per line or location cost, bringing a benefit to all users of the rural telephone company network). The value of this secondary benefit should not be ignored in the Commission's public interest review process under the ETC designation provisions. It can be particularly helpful to rural telephone companies operating in the highest cost, lowest density areas such as tribal lands.

**Expanded ETC Service Area Concern: Preventing Waste, Fraud and Abuse in
Multi-Household Addresses**

Preventing waste, fraud and abuse in the administration of wireless Lifeline is more difficult given the housing shortage on tribal lands. This difficulty is a distinct disadvantage of the type of service Assurance provides. According to the National Low Income Housing Coalition, "Native Americans on tribal lands have some of the worst housing needs in the United States."⁹ According to the same source, to prevent homelessness, often multiple households live at the same address. Specifically, the Coalition's research shows that, "nearly 16% of households across tribal lands live in overcrowded conditions."¹⁰ Other sources claim the issue in South Dakota, specifically, is more severe than the national average.¹¹

A "household" as defined for purposes of ETC is an "economic unit" comprised of "all adult individuals contributing to and sharing in the income and expenses of a household."¹² The rules acknowledge that more than one ETC "household" may reside at the same location. "If the prospective subscriber shares an address with one or more existing Lifeline subscribers according to the National Lifeline Accountability Database or National Verifier, the prospective

⁹ <https://nlihc.org/sites/default/files/Native-Housing.pdf>

¹⁰ Id.

¹¹ The website indianreservation.info asserts that 50% of the households on the Pine Ridge Reservation, 40% on the Rosebud Reservation and 30% on the Yankton Sioux Reservation experience overcrowding

¹² 47 CFR §54.400(h)

subscriber must complete a form certifying compliance with the one-per-household rule upon initial enrollment.”¹³ Assurance has systems in place to comply with this rule.

Where the system falls apart, however, is when a company has no internal process to track how many ETC households accumulate at a particular address. It should not be enough to simply collect the form from the consumer and thereafter turn a “blind eye.” Rather, the provider should take on some responsibility to prevent waste, fraud and abuse. As SDTA understands it, Assurance does not currently have a process in place to track the number of ETC households that accumulate at any one address. Recent USAC audit findings (regarding an unrelated company) highlight the real possibility of an unreasonable accumulation of households at one address when providing a wireless Lifeline product.¹⁴ Assurance should have a process in place to monitor and prevent this type of waste, fraud and abuse that simply does not exist when a wired fiber broadband connection is provided to an address.

Conclusion

If the Commission grants Assurance’s Petition in this docket, SDTA requests the Commission consider the following conditions to be explicitly included in an Order (many of which Assurance has agreed to or already planned to do):

- 1) All representations and conditions made by Assurance orally and in writing in both TC24-002 and this docket should be included as conditions of the ETC designation.¹⁵
- 2) Assurance must allow customers to cancel service at any time for any reason.¹⁶

¹³ 47 CFR §54.410(g).

¹⁴ [Telrite - March 2025 Lifeline Oversubscribed Address Appeals to Bureau - As Filed - REDACTED.pdf](#)

¹⁵ Assurance agrees to this condition. See Assurance to SDTA Data Request 22.

¹⁶ Assurance does not charge a cancellation or de-enrollment fee or penalty and should not be permitted to change this procedure without Commission review. See Assurance Wireless Response to Staff Data Request 1-40 in TC24-002.

- 3) Assurance should be restricted from modifying its service territory in any way without prior approval from the Commission, through a docket filing.¹⁷
- 4) Assurance should be required to develop a process to identify if an unreasonable number of ETC households seek service at the same physical location.
- 5) Assurance should be required to notify the Commission of USAC audit findings that indicate a violation of Lifeline rules or procedures.

Dated this 25th day of July, 2025.

/s/ Kara Semmler

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¹⁷ Assurance agreed to this condition in TC24-002.