

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petitions For Designation As An)	WC Docket No. 09-197
Eligible Telecommunications Carrier)	WT Docket No. 10-208
For Purposes of Participation in Mobility Fund)	AU Docket No. 12-25
Phase I)	
)	
Petition of T-Mobile For FCC Designation As An)	
Eligible Telecommunications Carrier For Mobility)	
Fund Phase I (Auction 901))	

ORDER

Adopted: July 3, 2012

Released: July 3, 2012

By the Chief, Wireline Competition Bureau and the Chief, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this order, the Wireline Competition Bureau and the Wireless Telecommunications Bureau (the Bureaus) grant the petition filed by T-Mobile, USA, Inc. on behalf of four of its wholly-owned subsidiaries, PowerTel/Memphis, Inc., T-Mobile Central LLC, T-Mobile South LLC, and T-Mobile Northeast LLC (collectively and individually “T-Mobile” or the company) asking that each of the subsidiaries be conditionally designated as an eligible telecommunications carrier (ETC), contingent upon the particular subsidiary becoming authorized to receive support in Mobility Fund Phase I and limited to those areas in which the particular subsidiary becomes so authorized.¹ More specifically, T-Mobile seeks ETC designation for PowerTel/Memphis in Alabama and Tennessee; for T-Mobile Central LLC in Alabama, for T-Mobile South LLC in Florida and North Carolina; and for T-Mobile Northeast LLC in New Hampshire, New York and Virginia. We find that each subsidiary meets the eligibility requirements of section 214(e)(6) of the Communications Act of 1934, as amended (the Act), and the Commission’s rules to be designated as an ETC in the relevant state(s), subject to the condition specified above.² We condition the designation pursuant to the Commission’s decision in the *USF/ICC Transformation Order*

¹ Petition of T-Mobile For FCC Designation As An Eligible Telecommunications Carrier For Mobility Fund Phase I (Auction 901), WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25 (filed April 13, 2012) (T-Mobile Petition). If T-Mobile becomes authorized to receive support in Mobility Fund Phase I, T-Mobile must, as a condition of being an ETC, offer Lifeline services and comply with all Lifeline rules in the areas in which it becomes authorized to receive Mobility Fund Phase I support, i.e., its ultimate service area. See 47 C.F.R. § 54.405. This order does not grant T-Mobile a Lifeline-only ETC designation. See 47 C.F.R. § 54, Subpart E, as amended. See generally, *Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 12-23, *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Lifeline and Link Up*, WC Docket No. 03-109, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 ¶¶ 49, 230 (rel. Feb. 6, 2012) (*Lifeline Reform Order*). Thus, under this designation, T-Mobile is not eligible to receive Lifeline support nor obligated to provide Lifeline services except to the extent that it is authorized to receive Mobility Fund Phase I support.

² 47 U.S.C. § 214(e)(6); 47 C.F.R. § 54.202.

providing that conditional designations may satisfy the ETC designation requirement for participation in the Mobility Fund Phase I auction.³

II. BACKGROUND

A. The Act

2. Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.”⁴ Pursuant to section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service support mechanisms throughout its designated service area.⁵

3. Section 214(e)(2) of the Act gives state commissions the primary responsibility for designating ETCs in their states.⁶ Section 214(e)(6) directs the Commission, upon request, to designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”⁷ Under section 214(e)(6), the Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience, and necessity, so long as the requesting carrier meets the requirements of section 214(e)(1).⁸ Before designating an additional ETC for an area served by a rural telephone company, the Commission must determine that the designation is in the public interest.⁹

B. Commission Requirements for ETC Designation

4. An ETC petition must contain the following: (1) a certification and brief statement of supporting facts demonstrating that the petitioner is not subject to the jurisdiction of a state commission;¹⁰ (2) a certification that the petitioner offers all services designated for support by the Commission pursuant to section 254(c) of the Act;¹¹ (3) a certification that the petitioner offers or intends to offer [the

³ Connect America Fund, WC Docket No. 10-90, A National Broadband Plan for Our Future, GN Docket No. 09-51, Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135, High-Cost Universal Service Support, WC Docket No. 05-337, Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109, Universal Service Reform – Mobility Fund, WT Docket No. 10-208, *Report and Order and Further Notice of Proposed Rulemaking*, 26 FCC Rcd 17663, 17809 ¶ 439 (2011) (*USF/ICC Transformation Order*), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011); 47 C.F.R. § 54.1003(a). This order in no way pre-judges the qualifications of T-Mobile or any of its subsidiaries to participate in Auction 901 or become authorized to receive Mobility Fund Phase I support.

⁴ 47 U.S.C. § 254(e).

⁵ 47 U.S.C. § 214(e)(1).

⁶ 47 U.S.C. § 214(e)(2).

⁷ 47 U.S.C. § 214(e)(6).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ 47 U.S.C. § 214(e)(1)(A). Section 54.101 of the Commission’s rules, as recently revised, states: “Services designated for support. Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or

(continued....)

supported] services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services;”¹² (4) a description of how the petitioner “advertise[s] the availability of the [supported] services and the charges therefor using media of general distribution;”¹³ and (5) if the petitioner is not a rural telephone company, a detailed description of the geographic service area for which it requests an ETC designation from the Commission.¹⁴ Petitioners also must certify that neither the petitioner nor any party to the application is subject to a denial of federal benefits, including Commission benefits, pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, as implemented in section 1.2002 of the Commission’s rules.¹⁵

5. Consistent with the service obligations all ETCs must satisfy in the public interest, a party petitioning for designation as an ETC must also: (1) certify that it will comply with the service requirements applicable to the support that it receives;¹⁶ (2) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area, estimating the area and population that will be served as a result;¹⁷ (3) demonstrate that it will remain functional in emergency situations;¹⁸ and (4) demonstrate that it will satisfy applicable consumer protection and service quality standards.¹⁹ In particular, “[a] commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement,” *i.e.*, the final requirement of the preceding sentence.²⁰

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its functional equivalent; minutes of use for local service provided at no additional charge to end users; 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 toll limitation services for qualifying low-income consumers as described in subpart E of this part.” 47 C.F.R. § 54.101(a). See *Lifeline Reform Order* at ¶¶ 49, 230. See also *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Order on Reconsideration, FCC 11-189, ¶ 3 (rel. Dec. 23, 2011).

¹² 47 U.S.C. § 214(e)(1)(A).

¹³ 47 U.S.C. § 214(e)(1)(B). 47 C.F.R. §§ 54.401 *et seq.* In addition, an ETC must advertise the availability of Lifeline service and, if eligible for such support, Link Up, in a manner reasonably designed to reach those likely to qualify for those services. In the recent *Lifeline Reform Order*, the Commission eliminated Link Up except for carriers that receive high-cost support on Tribal lands. *Lifeline Reform Order* at ¶ 254.

¹⁴ Section 54.207(d) of the Commission’s rules specifies the procedures for the Commission, on its own motion, to initiate a proceeding to define a service area that is different from that of the incumbent telephone company where the incumbent provider is a rural telephone company as that term is defined in 47 U.S.C. § 153(37). See 47 C.F.R. § 54.207(d).

¹⁵ 47 C.F.R. § 1.2002.

¹⁶ 47 C.F.R. § 54.202(a)(1)(i).

¹⁷ 47 C.F.R. § 54.202(a)(1)(ii).

¹⁸ In particular, the petition must include a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. See 47 C.F.R. § 54.202(a)(2).

¹⁹ 47 C.F.R. § 54.202(a)(3).

²⁰*Id.* The Cellular Telecommunications and Internet Association is now known as CTIA-The Wireless Association. We use its former name in this Order because it appears in the text of 47 C.F.R. § 54.202.

6. Prior to designating an ETC pursuant to section 214(e)(6), the Commission must determine whether such designation is in the public interest.²¹ In determining the public interest, the Commission considers a variety of factors, including the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering.²²

C. Mobility Fund Phase I

7. In the *USF/ICC Transformation Order*, the Commission comprehensively reformed and modernized the high-cost component of the Universal Service Fund (USF) to help ensure the universal availability of fixed and mobile communication networks capable of providing voice and broadband services where people live, work, and travel. To further achievement of that goal, the Commission created the Mobility Fund. In particular, the Commission provided that in Phase I of the Mobility Fund, it would award by reverse auction up to \$300 million in one-time support to immediately accelerate deployment of current and next generation networks providing mobile voice and broadband services in areas not presently covered by such networks.²³

8. In the auction for Mobility Fund Phase I support, applicants will bid for the amount of support they need to meet the Mobility Fund Phase I service and other public interest obligations in the eligible census blocks covered by the geographic area on which they bid. Applicants, except for Tribally-owned and controlled entities, must be designated as ETCs in the areas on which they wish to bid prior to filing their auction applications.²⁴ In connection with the Mobility Fund, the Wireline Competition Bureau and the Wireless Telecommunications Bureau (the Bureaus) have delegated authority to grant or deny ETC designation petitions.²⁵ An ETC designation may be conditional subject to the receipt of Mobility Fund Phase I support.²⁶

D. T-Mobile Petition

9. On April 13, 2012, T-Mobile filed its petition seeking designation of its identified wholly-owned subsidiaries as an ETC in specified states.²⁷ T-Mobile filed its petition in part in order to

²¹ 47 U.S.C. § 214(e)(6); 47 C.F.R. § 54.202(b); *see also Federal-State Joint Board on Universal Service*, CC Docket No. 95-45, Report and Order, 20 FCC Rcd 6371, 6388-96 ¶¶ 40-57 (2005) (*ETC Designation Order*). The Commission places the burden on the ETC applicant to demonstrate that designation will serve the public interest. *Id.* at 6390 ¶ 44. The Commission adopted a single set of criteria for evaluating the public interest for ETC designations for areas served by both rural and non-rural carriers. *Id.* at 6389-90 ¶¶ 42-43.

²² *See id.* at 6388-96 ¶¶ 40-57.

²³ *USF/ICC Transformation Order*, 26 FCC Rcd at 17773 ¶ 299.

²⁴ *See id.* at 17798-801 ¶¶ 388-99; 47 C.F.R. § 54.1003. A Tribal entity may participate provided it has applied for designation as an ETC for the relevant area and that application is still pending. Any such entity must still receive designation prior to support being awarded. *Id.* at 17823 ¶ 491; 47 C.F.R. § 54.1004(a).

²⁵ *See* 47 C.F.R. §§ 0.91(p) (functions of Wireline Competition Bureau), 0.131(r)(functions of Wireless Telecommunications Bureau), 0.291(delegation of authority to Wireline Competition Bureau), 0.331(delegation of authority to Wireless Telecommunications Bureau), *see also Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997) (express delegation with respect to ETC designations to predecessor to Wireline Competition Bureau). *See also* "Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I," WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25, *Public Notice*, 27 FCC Rcd 2054 (rel. Feb. 24, 2012).

²⁶ 47 C.F.R. § 54.1003(a). *See also USF/ICC Transformation Order*, 26 FCC Rcd at 17798-99 ¶¶ 389, 392.

²⁷ *See generally* T-Mobile Petition.

participate in Auction 901, the upcoming competitive bidding for support offered in Mobility Fund Phase I.²⁸ T-Mobile states that it meets all of the eligibility requirements for ETC designation.²⁹ T-Mobile also states that it will: (1) offer the services designated for support by the Commission pursuant to section 254(c) of the Act; (2) offer the supported services using its own facilities or a combination of its own and other facilities; and (3) advertise the availability of the supported services and associated charges using media of general distribution.³⁰ T-Mobile subsequently amended the T-Mobile Petition with more detailed Service Improvement Plans (SIPs) filed on April 27, 2012.³¹ T-Mobile sought confidential treatment of some of the information contained in the SIPs and redacted relevant portions of its public filings, while filing a complete copy with the Commission.³² T-Mobile further amended the T-Mobile Petitions with certifications by an officer of each of the subsidiaries filed on June 13, 2012.³³

10. On May 4, 2012, the Bureaus released a public notice seeking comment on the T-Mobile Petition.³⁴ In light of T-Mobile's request for confidential treatment of some of the information filed in support of the T-Mobile Petition, the Bureaus released a Protective Order so that interested parties might have a means of reviewing all the information submitted to the Commission.³⁵ No comments were received.

III. DISCUSSION

11. In this order, we consider whether T-Mobile's subsidiaries meets the requirements under the Act and the Commission's rules to be designated as an ETC in the relevant states, conditioned upon the particular subsidiary becoming authorized to receive support in Mobility Fund Phase I and limited to those areas in which it becomes so authorized. After review of the record, we conclude that T-Mobile's specified subsidiaries meet the applicable requirements to be so designated.³⁶

²⁸ T-Mobile Petition at 1.

²⁹ *Id.* at 2.

³⁰ *Id.* at 5-7.

³¹ Petition of T-Mobile For FCC Designation As An Eligible Telecommunications Carrier For Mobility Fund Phase I (Auction 901), Service Improvement Plans, WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25 (filed April 27, 2012) (T-Mobile SIPs).

³² *See id.*

³³ Petition of T-Mobile For FCC Designation As An Eligible Telecommunications Carrier For Mobility Fund Phase I (Auction 901), Supplemental Certifications, WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25 (filed June 13, 2012) (T-Mobile Certifications).

³⁴ "Wireless Telecommunications Bureau and Wireline Competition Bureau Seek Common on Petitions for Designation as Eligible Telecommunications Carriers Filed by SI Wireless and T-Mobile," *Public Notice*, WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25, DA 12-718 (rel. May 4, 2012).

³⁵ Petition of SI Wireless, LLC For Designation as an Eligible Telecommunications Carrier in Tennessee; Petition of T-Mobile for FCC Designation as an Eligible Telecommunications Carrier for Mobility Fund Phase I (Auction 901), WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25, DA 12-722, *Protective Order* (rel. May 7, 2012), *superseded by* Petitions for Designation as an Eligible Telecommunications Carrier for Purposes of Participation in Mobility Fund Phase I, WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25, DA 12-780, *Protective Order* (rel. May 17, 2012).

³⁶ *See supra* n.1 (explaining that this Order does not designate T-Mobile to become an ETC for Lifeline-only support).

A. Commission Authority to Perform the ETC Designation

12. T-Mobile cites authority with respect to each state relevant to the T-Mobile Petition to demonstrate that each of the states do not exercise jurisdiction over the ETC designation requested and, therefore, that the Commission has authority to consider T-Mobile's Petition under section 214(e)(6) of the Act.³⁷ T-Mobile thereby has demonstrated that the Commission has authority to perform the requested ETC designations.³⁸

B. Designated Service Area

13. Subject to the condition that the designation will be effective only in those areas in which T-Mobile becomes authorized to receive support in Mobility Fund Phase I, we designate each particular subsidiary as an ETC in the relevant state within the areas identified in T-Mobile's SIPs.³⁹ T-Mobile requested confidential treatment of information in its SIPs, including the areas covered by the SIPs.⁴⁰ T-Mobile's request was based in part on the fact that disclosure of the information "could reveal T-Mobile's Auction 901 strategy."⁴¹ In Auction 901, the Bureaus have provided that information regarding applicants' interests in areas eligible for support will be withheld from public release until after the announcement of auction results.⁴² Consistent with the Commission's conduct of Auction 901, we will maintain the confidentiality of the information in the SIPs. We note that once winning bidders and their bids are publicly announced following Auction 901, each particular T-Mobile subsidiary will have a service area that is defined by the areas in which it has won Mobility Fund Phase I support. Accordingly, information regarding the service areas will then become public.

14. The Commission provided in the *USF/ICC Transformation Order* that a party must be an ETC to be eligible to compete for support available in Mobility Fund Phase I.⁴³ The Commission further provided that a party might meet this eligibility requirement with an ETC designation that was conditioned upon the receipt of Mobility Fund support.⁴⁴ In other words, the Commission would accept

³⁷ T-Mobile Petition at 8-9 (citing Order, Docket U-4400, Ala. PSC (Mar. 12, 2002) (Alabama), 364.001 Fla. Stat., *as amended* by the Regulatory Reform Act, Ch. 2011-36, §3 (enacted May 5, 2011) (Florida), Order No. 24, 245, 88 NH PUC 611 (2003) (New Hampshire), N.Y. Pub. Svc. L. §5(6), Order Granting Petition, Docket No. P-100, SUB 133c, N.C. Util. Comm. (Aug. 28, 2003) (North Carolina), Order, Docket 02-01245, Tenn. Reg'y Auth. (April 11, 2003) (Tennessee), Virginia Cellular LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, CC Docket No. 96-45, *Order*, 19 FCC Rcd 1563 (2004) (Virginia)).

³⁸ 47 U.S.C. § 214(e)(6).

³⁹ *See* T-Mobile SIPs.

⁴⁰ T-Mobile SIPs, Cover Letter at 2-3. This information was available to interested parties pursuant to the terms of the Protective Orders issued by the Bureaus. *See* Petition of SI Wireless, LLC For Designation as an Eligible Telecommunications Carrier in Tennessee; Petition of T-Mobile for FCC Designation as an Eligible Telecommunications Carrier for Mobility Fund Phase I (Auction 901), WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25, DA 12-722, *Protective Order* (rel. May 7, 2012), *superseded* by Petitions for Designation as an Eligible Telecommunications Carrier for Purposes of Participation in Mobility Fund Phase I, WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25, DA 12-780, *Protective Order* (rel. May 17, 2012). No party sought access to the information pursuant to the Protective Order.

⁴¹ T-Mobile SIPs, Cover Letter at 2.

⁴² *Auction 901 Procedures Public Notice* at 147.

⁴³ 47 C.F.R. § 54.1003(a). *See also USF/ICC Transformation Order*, 26 FCC Rcd at 17798-99, 17809 ¶¶ 389, 392, 439.

⁴⁴ 47 C.F.R. § 54.1003(a). *See also USF/ICC Transformation Order*, 26 FCC Rcd at 17799 ¶ 391 n.665.

as sufficient for participation in the competitive bidding for Mobility Fund Phase I support an ETC designation that is conditioned upon the party becoming authorized to receive Mobility Fund Phase I support as a result of the bidding. T-Mobile seeks such designations in the T-Mobile Petition.⁴⁵

15. Dependent upon the outcome of Auction 901, T-Mobile might become authorized for Mobility Fund Phase I support in only a portion of a rural study area. The terms of section 214(e)(5) require that an ETC's service area conform to the study area of any rural telephone company within that area. However, the Commission recently issued an Order forbearing from application of the conformance requirement with respect to petitions for designation for purposes of participating in Mobility Fund Phase I.⁴⁶ Accordingly, pursuant to the terms of the *Forbearance Order*, the ETC service area for any of the T-Mobile subsidiaries may be limited to the area in which it has received support, in the event that T-Mobile becomes authorized to receive support in only a portion of a relevant rural telephone company study area.

C. Threshold Eligibility Requirements

16. T-Mobile has established through the required certifications and related filings that it will offer the services supported by the federal universal service support mechanisms.⁴⁷ In addition, T-Mobile has certified that it offers or will offer the supported services using its own facilities or a combination of its own and other facilities.⁴⁸ Consistent with the requirements of section 214(e)(1)(A), T-Mobile has committed to advertise the availability of the supported services and the related charges "using media of general distribution."⁴⁹

17. T-Mobile has identified with specificity in its SIPs areas in which it may seek support in Mobility Fund Phase I. As noted above, in light of the conditional designation we provide in this order, the ETC service area of each relevant T-Mobile subsidiary resulting from this order will consist of the areas where the subsidiary becomes authorized to receive Mobility Fund Phase I support within the respective areas identified for each subsidiary in its respective SIP(s). We conclude that a service area designated by these means meets the Commission's requirement.

18. Pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, no applicant is eligible for any new, modified, or renewed instrument of authorization from the Commission, including authorizations issued pursuant to section 214 of the Act, unless the applicant certifies that neither it nor any party to its application is subject to a denial of federal benefits, including Commission benefits.⁵⁰ T-Mobile has provided a certification consistent with the requirements of the Anti-Drug Abuse Act of

⁴⁵ T-Mobile Petition at 1.

⁴⁶ *Connect America Fund*, WC Docket No. 10-90 et al., Second Report and Order, FCC 12-70 (rel. June 27, 2012), 77 FR 39435 (rel. July 3, 2012) ("*Forbearance Order*"). The *Forbearance Order* became effective upon publication in the Federal Register, i.e., on July 3, 2012. *Id.*

⁴⁷ *See, generally*, T-Mobile Petition, T-Mobile Certifications.

⁴⁸ T-Mobile Petition at 6; *see* 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1).

⁴⁹ 47 U.S.C. § 214(e)(1)(B); *see* T-Mobile Petition at 7.

⁵⁰ 21 U.S.C. § 862; 47 C.F.R. § 1.2002(a)–(b). Section 1.2002(b) provides that a "party to the application" shall include: "(1) If the applicant is an individual, that individual; (2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or nonvoting) of the petitioner; and (3) If the application is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership." 47 C.F.R. § 1.2002(b); *see Section 214(e)(6) Public Notice*, 12 FCC Rcd at 22949.

1988.⁵¹ We find that T-Mobile has satisfied the requirements of the Anti-Drug Abuse Act of 1988, as codified in sections 1.2001–1.2003 of the Commission’s rules.

D. Public Interest Service Obligations

19. T-Mobile also has established through the required certifications and related filings that it meets the other requirements for ETC eligibility. T-Mobile has (1) certified that it will comply with the service requirements applicable to the support that it receives;⁵² (2) submitted a five-year plan containing the required information;⁵³ (3) demonstrated its ability to remain functional in emergency situations;⁵⁴ and (4) demonstrated that it will satisfy applicable consumer protection and service quality standards, by committing to compliance with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.⁵⁵

E. Public Interest Analysis

20. We find that T-Mobile’s participating in universal service programs in areas in which it becomes authorized to receive Mobility Fund Phase I support should provide a variety of benefits to consumers including mobile voice and current or next generation broadband access.⁵⁶ In the *USF/ICC Transformation Order*, the Commission adopted support for advanced services as one of the principles on which it would base policies for the preservation and advancement of universal service.⁵⁷ Mobility Fund Phase I offers support in areas that the Commission has determined lack current generation or better mobile voice and broadband service. Mobility Fund Phase I offers support through a competitive bidding process -- the lower are bids in the auction, the greater is the program’s ability to support newly provided services. Enabling otherwise qualified parties to participate in this process may encourage more aggressive auction competition, thus lowering bids and permitting greater mobile coverage with the limited amount of support available in Phase I of the Mobility Fund. We further find T-Mobile has deployed an advanced communications network that should make it capable of delivering supported services thought any area for which it becomes authorized to receive Mobility Fund support, consistent with the goals of Mobility Fund Phase I.⁵⁸ An ETC with conditional designation will have the obligations of any other ETC receiving Mobility Fund Phase I support for the areas in which the condition is satisfied, including an obligation to make available Lifeline service to eligible low income consumers.⁵⁹

⁵¹ T-Mobile Petition at 9; *see* T-Mobile Certifications.

⁵² T-Mobile Petition at 3; *see* T-Mobile Certifications.

⁵³ *See* T-Mobile SIPs.

⁵⁴ T-Mobile Petition at 4-5; *see* T-Mobile Certifications.

⁵⁵ *See* 47 C.F.R. § 54.202(a).

⁵⁶ This Order in now way pre-judges whether any particular proposed service offering by T-Mobile meets the requirements of the Commission’s rules.

⁵⁷ *USF/ICC Transformation Order*, 26 FCC Rcd at 17679 ¶¶ 43-45.

⁵⁸ T-Mobile Petition at 6.

⁵⁹ *See* 47 C.F.R. § 54.405 (ETC obligation to offer Lifeline service). In conjunction with its commitment to comply with all the requirements applicable to the support that it receives, T-Mobile has confirmed that it will offer Lifeline to low-income consumer in areas covered by Mobility Fund support and that those offerings will be substantially similar to its Lifeline offering in areas where T-Mobile is designated exclusively as a Lifeline ETC. Letter dated June 25, 2012 from Karen Brinkmann, counsel for T-Mobile USA, Inc., WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25.

21. Finally, we note that the impact on the Universal Service Fund and cream-skimming are not concerns in this instance, in contrast to past designations of competitive ETCs under the identical support rule.⁶⁰ Pursuant to the *USF/ICC Transformation Order*, the identical support rule will no longer provide support to newly designated ETCs and the budget for the Mobility Fund is fixed.⁶¹ Accordingly, the requested designations are unlikely to have a substantial impact on the Universal Service Fund. In addition, the recent Commission order forbearing from the service area conformance requirement makes clear that cream-skimming is not a concern when considering the petition of a party seeking conditional ETC designation for purposes of participating in Phase I of the Mobility Fund.⁶²

F. Regulatory Oversight

22. We note that T-Mobile will be required under section 254(e) of the Act to use universal service support “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” In the event that T-Mobile becomes authorized to receive support in Mobility Fund Phase I, it will have to certify compliance with this requirement and all other requirements for receipt of Mobility Fund Phase I support, prior to requesting the disbursement of any such support.⁶³ In addition, if it becomes authorized to receive Mobility Fund Phase I support, T-Mobile must report certain information to the Commission, the Universal Service Administrative Company (USAC), and relevant State or Tribal authorities for the area in which it is designated as an ETC pursuant to section 54.1009 of our rules.⁶⁴

23. We find that reliance on T-Mobile’s commitments to meet these requirements is reasonable and consistent with the public interest and the Act.⁶⁵ We conclude that fulfillment of these additional reporting requirements will further the Commission’s goal of ensuring that T-Mobile satisfies its obligation under section 214(e) of the Act to provide supported services throughout its designated service area.

24. The Commission may institute an inquiry on its own motion to examine any ETC’s records and documentation to ensure that the universal service support the ETC receives is being used “only for the provision, maintenance, and upgrading of facilities and services” in the areas in which it is designated as an ETC.⁶⁶ T-Mobile will be required to provide such records and documentation to the Commission and USAC upon request.⁶⁷ We further emphasize that if T-Mobile fails to fulfill the requirements of the Act, the Commission’s rules, and the terms of this order after it begins receiving

⁶⁰ The term “cream-skimming” refers to an entity offering service only to those customers who are the least expensive to serve. See *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 8881–82 ¶ 189 (1997) (subsequent history omitted).

⁶¹ *USF/ICC Transformation Order*, 26 FCC Rcd at 17773, 17830 ¶¶ 299 (Mobility Fund budget), 511 (eliminating identical support rule effective January 1, 2012).

⁶² *Forbearance Order* at para. 18.

⁶³ 47 U.S.C. § 254(e); 47 C.F.R. § 54.1008(e); see also T-Mobile Petition at 3-4.

⁶⁴ 47 C.F.R. § 54.1009(c).

⁶⁵ See generally T-Mobile Petition.

⁶⁶ 47 U.S.C. §§ 220, 403.

⁶⁷ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17864 ¶ 621; 47 C.F.R. § 54.1010; see also, 47 C.F.R. § 54.417.

universal service support, the Commission has authority to revoke its ETC designation.⁶⁸ The Commission also may assess forfeitures for violations of Commission rules and orders.⁶⁹

IV. ORDERING CLAUSES

25. Accordingly, IT IS ORDERED that, pursuant to the authority contained in section 214(e)(6) of the Communications Act, 47 U.S.C. § 214(e)(6), and the authority delegated in sections 0.91, 0.131, 0.291, and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.131, 0.291, 0.331, POWERTEL/MEMPHIS, T-MOBILE CENTRAL LLC, T-MOBILE SOUTH LLC, AND T-MOBILE NORTHEAST LLC EACH ARE CONDITIONALLY DESIGNATED AS ELIGIBLE TELECOMMUNICATIONS CARRIERS in the respective states identified in Appendix A and within the areas identified in their respective Service Improvement Plans, contingent upon the particular T-Mobile subsidiary becoming authorized to receive Mobility Fund Phase I support, and limited to those areas in which it becomes so authorized; and

26. IT IS FURTHER ORDERED that a copy of this order SHALL BE transmitted by the Office of the Secretary to the relevant authorities in the respective states and the Universal Service Administrative Company; and

27. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), this order SHALL BE effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach
Chief
Wireline Competition Bureau

Ruth Milkman
Chief
Wireless Telecommunications Bureau

⁶⁸ See *Federal-State Joint Board on Universal Service, Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45, Declaratory Ruling, 15 FCC Rcd, 15168, 15174 ¶ 15 (2000), *recon. pending*; see also 47 U.S.C. § 254(e).

⁶⁹ See 47 U.S.C. § 503(b).

Appendix A

PowerTel/Memphis	Alabama and Tennessee
T-Mobile Central LLC	Alabama
T-Mobile South LLC	Florida and North Carolina
T-Mobile Northeast LLC	New Hampshire, New York and Virginia