



# PUBLIC NOTICE

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## WIRELINE COMPETITION BUREAU REMINDS CARRIERS OF ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION AND COMPLIANCE PLAN APPROVAL REQUIREMENTS FOR RECEIPT OF FEDERAL LIFELINE UNIVERSAL SERVICE SUPPORT

WC Docket No. 09-197

WC Docket No. 11-42

The Wireline Competition Bureau (Bureau) issues this Public Notice to remind entities that must be deemed an eligible telecommunications carrier (ETC) under the Communications Act of 1934, as amended (the Act), and the Commission's rules in order to receive Lifeline support.<sup>1</sup> The Bureau also reminds ETCs that Bureau approval of a Lifeline compliance plan is limited to the entity as it was structured at the time the approval was granted. Thus, Commission approval is required in advance of any transfer of ownership or control of an ETC with an approved Lifeline compliance plan, as discussed below.<sup>2</sup>

Pursuant to section 254(e) of the Act, a carrier must be designated an ETC in order to receive reimbursement for providing Lifeline service to qualified low-income consumers.<sup>3</sup> The Act also requires that an ETC must offer supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services."<sup>4</sup> State commissions have primary responsibility for designating ETCs under section 214(e)(2) of the Act,<sup>5</sup> while that responsibility shifts to the Commission for carriers "providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission."<sup>6</sup> The transfer of control of licenses and other authorizations from an

<sup>1</sup> 47 U.S.C. §§ 214(e), 254(e); 47 C.F.R. §§ 54.201, 54.202. Carriers may be designated as an ETC for the limited purpose of participating in the federal Lifeline program. See, e.g., *i-wireless Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45 *et al.*, WC Docket No. 09-197, Order, 25 FCC Rcd 8784 (2010) (*i-wireless Forbearance Order*); *Telecommunications Carriers Eligible for Universal Service Support*, Order, WC Docket No. 09-197, 27 FCC Rcd 6263, (Wireline Comp. Bur. 2012) (*i-Wireless/Cricket Designation Order*); *Petition of TracFone Wireless, Inc. for Forbearance*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (*TracFone Forbearance Order*); *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (*TracFone Forbearance Order*); *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York et al.*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008) (*TracFone ETC Designation Order*).

<sup>2</sup> See *Lifeline and Link Up Reform et al.*, WC Docket No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6816, para. 380, n.1000 (2012) (*Lifeline Reform Order*).

<sup>3</sup> 47 U.S.C. § 254(e).

<sup>4</sup> 47 U.S.C. § 214(e)(1)(A).

<sup>5</sup> 47 U.S.C. § 214(e)(2).

<sup>6</sup> 47 U.S.C. § 214(e)(6).

entity already designated as an ETC to another entity that has not been designated as an ETC is insufficient for the transferee itself to assume the ETC status of the acquired ETC.<sup>7</sup> Rather, the transferee must obtain its own designation from the proper designating authority in order to receive reimbursement for Lifeline service. The transferee is an ETC only if the relevant authority determines that the transferee satisfies all the requirements of the Act.<sup>8</sup>

An entity operating or seeking to operate as a Lifeline-only ETC that is not offering Lifeline service over its own facilities, or a combination of its own and resold facilities is also subject to the compliance plan requirement set forth in the *Lifeline Reform Order*. Pursuant to the *Lifeline Reform Order*, any entity that is not offering Lifeline service over its own facilities, or a combination of its own and resold facilities, must submit and receive the Bureau's approval of a compliance plan demonstrating to the Bureau's satisfaction that the entity will comply with its obligations for offering Lifeline service, including the prevention of waste, fraud, and abuse and the maintenance of sufficient financial and technical capabilities to offer Lifeline services in compliance with these obligations.<sup>9</sup> The compliance plan must include such key information as the names and identifiers used by the carrier, its holding company, operating company and all affiliates.<sup>10</sup> Entities operating as Lifeline-only ETCs pursuant to an approved compliance plan must adhere to the terms laid out in their compliance plans. Such entities may not operate contrary to any material terms of their approved compliance plans without receiving prior Bureau approval.<sup>11</sup> The Bureau considers a Lifeline provider's corporate ownership and control to be critical in the compliance plan approval process. Thus, the approval of a compliance plan is limited to the entity, and its ownership, as they are described in the compliance plan approved by the Bureau, and any material changes in ownership or control require modification of the compliance plan that must be approved by the Bureau in advance of the changes.

For additional information, please contact Jonathan Lechter, Acting Deputy Division Chief in the Wireline Competition Bureau, Telecommunications Access Policy Division, at (202) 418-7400.

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<sup>7</sup> See, e.g., *Allied Wireless Communications Corporation Petition for Eligible Telecommunications Carrier Designations in the State of North Carolina*, WC Docket No. 09-197, Order, 25 FCC Rcd 12577, 12580, para. 8 (Wireline Comp. Bur. 2010) (*Allied Wireless ETC Designation Order*) (considering the petitioner's request for ETC designation and stating that although the petitioner had received the transfer and control of licenses and other authorizations from another provider, neither the Commission nor the relevant state commission had previously determined whether the petitioner met the requirements of the Act to be designated an ETC).

<sup>8</sup> *Id.*; see also 47 U.S.C. § 214(e)(2), (e)(6) (providing state commissions and the Commission, respectively, with authority to designate entities as ETCs). Entities seeking ETC designation from the Commission must adhere to the Commission's requirements for such designation. See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 22947, 22948 (1997); *Federal-State Joint Board on Universal Service*, CC Docket No. 95-45, Report and Order, 20 FCC Rcd 6371 (2005); 47 C.F.R §§ 54.201, 54.202.

<sup>9</sup> *Lifeline Reform Order*, 27 FCC Rcd at 6813, 6818, paras. 368, 387-88. The Commission noted that historically it had conditioned forbearance from the "own facilities" requirement on the filing and approval of a compliance plan describing the ETC's adherence to certain protections designed to protect consumers and the Fund. *Id.* at 6816, para. 379.

<sup>10</sup> See *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to The Lifeline Reform Order*, 27 FCC Rcd 2186 (Wireline Comp. Bur. 2012).

<sup>11</sup> An ETC also remains obligated to continue providing service unless and until it complies with any applicable discontinuance or relinquishment requirements.