

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

i-wireless, LLC

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File No.: EB-IHD-13-00010656
Acct. No.: 201432080003
FRN: 0016194292

ORDER

Adopted: December 22, 2017

Released: December 29, 2017

By the Commission: Commissioner Clyburn approving in part, dissenting in part, and issuing a statement.

1. The Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into whether i-wireless, LLC (i-wireless) violated the Commission’s rules by requesting and/or receiving support from the Lifeline program of the Universal Service Fund (USF or Fund) for ineligible, duplicative subscribers, as identified by the Universal Service Administrative Company (USAC) through periodic in-depth validations (IDVs). To settle this matter, i-wireless will implement a compliance plan to ensure that it adheres to the Commission’s rules and will pay a Seven Hundred Fifty Thousand Dollar (\$750,000) settlement amount.

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, including that USAC has recovered the overpayments for ineligible duplicate support received by i-wireless for the time periods covered by the IDVs conducted by USAC, we find that the public interest would be served by adopting the Consent Decree and resolving the Notice of Apparent Liability for Forfeiture (NAL) regarding i-wireless’s compliance with the Lifeline program rules set forth in Sections 54.407, 54.409, and 54.410 of the Commission’s rules.¹

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of i-wireless’s basic qualifications to hold or obtain any Commission license or authorization.²

4. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Act,³ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED** and the NAL **IS RESOLVED** in accordance with the terms of the attached Consent Decree.

¹ 47 CFR §§ 54.407, 54.409, 54.410.

² See 47 CFR § 1.93(b).

³ 47 U.S.C. §§ 154(i), 503(b).

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Gary Millerchip, Acting Chief Executive Officer, i-wireless, LLC, 1 Levee Way, Suite 3104, Newport, KY 41071, and John J. Heitmann, Counsel for i-wireless, LLC, Kelley Drye & Warren LLP, 3050 K Street, N.W., Suite 400, Washington, D.C. 20007-5108.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

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File No.: EB-IHD-13-00010656
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CONSENT DECREE

1. The Federal Communications Commission (Commission) and i-wireless, LLC (i-wireless or the Company), by their authorized representatives, hereby enter into this Consent Decree for the purpose of settling the Commission’s investigation, as defined below, into whether i-wireless violated Sections 54.407, 54.409, and 54.410 of the Commission’s rules by requesting and/or receiving support from the Lifeline program of the Universal Service Fund (USF or Fund) for ineligible subscribers.

I. DEFINITIONS

- 2. For the purposes of this Consent Decree, the following definitions shall apply:
(a) “Act” means the Communications Act of 1934, as amended.4
(b) “Adopting Order” means an order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) “Agents” means all contractors and/or subcontractors acting on behalf of the Company with respect to the sales, marketing, enrollment of new customers, and other duties related to the Company’s responsibilities under the Lifeline Rules.
(d) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
(e) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
(f) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which i-wireless is subject by virtue of its business activities.
(g) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 14.
(h) “Covered Employees” means all employees of i-wireless who perform, or supervise, oversee, or manage the performance of, duties that relate to i-wireless’s responsibilities under the Lifeline Rules.
(i) “Covered Third Party” means any non-employee Person, as defined herein, that performs services involving the enrollment and de-enrollment of Lifeline consumers, or any duties that relate to the Lifeline eligibility and de-enrollment rules, pursuant to a contractual relationship or agreement with i-wireless, including any person performing work related to the Lifeline Rules on behalf of i-wireless.
(j) “Effective Date” means the date by which both the Bureau and i-wireless have

4 47 U.S.C. § 151, et seq.

signed the Consent Decree.

- (k) “ETC” means an eligible telecommunications carrier designated under, or operating pursuant to, Section 214(e) of the Communications Act, as amended, 47 U.S.C. § 214(e), as eligible to offer and receive support for one or more services that are supported by the federal universal support mechanisms.
- (l) “Investigation” means the investigation commenced by the Bureau in File No. EB-IHD-13-00010656, and in *i-wireless, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 15381 (2013), regarding whether i-wireless violated the Lifeline Rules.
- (m) “i-wireless” or “Company” means i-wireless, LLC, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (n) “Lifeline Rules” means Title 47, Code of Federal Regulations, Sections 54.400–54.423, Section 254 of the Act, and Commission orders related to Lifeline service to low-income consumers.
- (o) “Operating Procedures” means the standard internal operating procedures and compliance policies established by i-wireless to implement the Compliance Plan.
- (p) “Parties” means i-wireless and the Commission, each of which is a “Party.”
- (q) “Person” shall have the same meaning defined in Section 153(39) of the Communications Act, as amended, 47 U.S.C. § 153(39).
- (r) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (s) “USAC” means the Universal Service Administrative Company, which serves as the administrator for the federal Universal Service Fund.⁵

II. BACKGROUND

3. Lifeline is a Universal Service Fund (USF) program that helps qualifying consumers connect to jobs, family members, and emergency services.⁶ Lifeline service is provided by designated eligible telecommunications carriers (ETCs) pursuant to the Communications Act of 1934, as amended (Act).⁷ An ETC may generally request Federal Lifeline support in the amount of \$9.25 per month for each qualifying low-income consumer it serves, provided the ETC passes through the support amount to the consumer.⁸ To request reimbursement, ETCs must certify to the Universal Service Administrative Company (USAC) that they have followed the Rules relating to Lifeline.⁹ Section 54.407 of the Rules specifies that the support provided to an ETC is limited to “the number of actual qualifying low-income

⁵ See 47 CFR § 54.701.

⁶ *Lifeline & Link Up Reform & Modernization*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6662–67, paras. 11–18 (2012) (*Lifeline Reform Order*); see 47 CFR §§ 54.400–54.423.

⁷ 47 U.S.C. § 254(e) (providing that “only an eligible telecommunications carrier designated under section 214(e) of this title shall be eligible to receive specific Federal universal service support”); 47 U.S.C. § 214(e) (prescribing the method by which carriers are designated as ETCs).

⁸ See 47 CFR § 54.403(a)(1) and (2). ETCs may receive additional federal Lifeline support of up to \$25 per month for providing Lifeline service to an eligible resident of Tribal lands, as defined in 47 CFR § 54.409(e). See 47 CFR § 54.403(a)(3).

⁹ See 47 CFR § 54.407(d). USAC administers the Lifeline program and is responsible for support calculation and disbursement payments to ETCs. See 47 CFR § 54.702(b).

customers” it serves.¹⁰ Additionally, pursuant to Sections 54.407 and 54.410 of the Rules, ETCs must obtain certification of every subscriber’s eligibility and certify their own compliance with the Rules.¹¹

4. Furthermore, Section 54.410(a) of the Rules requires ETCs to implement policies and procedures for ensuring that their subscribers are eligible to receive Lifeline service.¹² Among other things, the Commission’s Rules define an eligible, or “qualifying low-income consumer,” as one who is not already receiving a Lifeline service and where no one else in the household is a Lifeline subscriber.¹³ The Commission has made clear that “qualifying low-income consumers may receive no more than a single Lifeline benefit.”¹⁴ In February 2012, the FCC defined “duplicative support” as “when a Lifeline subscriber is receiving two or more Lifeline services concurrently or two or more subscribers in a household are receiving Lifeline services or Tribal Link Up support concurrently.”¹⁵ Therefore, ETCs generally must implement procedures designed to ensure that they are not seeking support from the Lifeline program for duplicate subscribers.¹⁶

5. In 2011, USAC began conducting in-depth data validations (IDVs) to identify subscribers who were improperly receiving duplicative Lifeline support.¹⁷ If USAC determined that a subscriber was the recipient of multiple Lifeline benefits from that same ETC (*e.g.*, intra-company duplicates), it notified the ETC of the instances of duplicate support, recouped duplicate payments, and directed the ETC to de-enroll the intra-company duplicate subscribers.¹⁸

6. *i-wireless* is a North Carolina limited liability company headquartered in Newport, Kentucky. The Company is equally owned by two members, Genie Global, Inc. and The Kroger Co., which is a large grocery retail chain.¹⁹ At the time of the release of the *i-wireless NAL*, *i-wireless* was designated as an ETC in a number of states, including but not limited to, Illinois, Indiana, New York,

¹⁰ 47 CFR § 54.407(a)–(b).

¹¹ See 47 CFR §§ 54.407(d), 54.410(b)–(c), 54.416. To receive reimbursement, ETCs must file an FCC Form 497 with USAC, on which they must certify compliance with the Rules. See *Lifeline Reform Order*, 27 FCC Rcd at 6698, 6714, paras. 91, 125.

¹² 47 CFR § 54.410(a). See also *Lifeline Reform Order*, 27 FCC Rcd at 6879, Appendix A.

¹³ 47 CFR §§ 54.400(a); 54.409(c).

¹⁴ See *Lifeline & Link Up Reform & Modernization*, Report and Order, 26 FCC Rcd 9022, 9022–23, para. 2 (2011) (*Lifeline Duplicates Order*). See also *Lifeline & Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8306, para. 4 (2004); see also 47 CFR § 54.409(c) (qualifying Lifeline customers must not already be receiving a Lifeline service); 47 CFR § 54.401 (defining Lifeline); 47 CFR § 54.400(h) (defining “household” as “any individual or group of individuals who are living together at the same address as one economic unit”); *Lifeline Reform Order*, 27 FCC Rcd at 6760, para. 241 (noting that the costs of wireless handsets are not supported by Lifeline).

¹⁵ See generally *Lifeline Reform Order*, 27 FCC Rcd 6656; 47 CFR § 54.400(g). The Lifeline Reform Order also required ETCs, upon notification from USAC, to de-enroll subscribers who were found to have received duplicative support. 47 CFR § 54.405(e)(2).

¹⁶ 47 CFR § 54.410.

¹⁷ See *Lifeline Duplicates Order*, 26 FCC Rcd at 9023, para. 2, nn.4–5; Letter from Sharon E. Gillett, Chief, Wireline Competition Bureau, FCC, to D. Scott Barash, Acting CEO, USAC, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, 26 FCC Rcd 8588 (WCB 2011).

¹⁸ *Id.*

¹⁹ *i-wireless, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 15381, 15383, para. 8 (2013) (*i-wireless NAL* or *NAL*). See also State of North Carolina Department of the Secretary of State, Business Registration, <http://www.sosnc.gov/Search/profcorp/8039285> (entity created Sept. 7, 2006) (last visited Oct. 18, 2017).

North Carolina, Ohio, South Carolina, Tennessee, and West Virginia.²⁰ To receive reimbursement for Lifeline services provided, i-wireless was required to file claims regularly with USAC.²¹ USAC conducted IDVs of the Lifeline support requested by i-wireless for its subscribers in the following eight states for the months specified: Ohio (October 2012); North Carolina (November 2012); Illinois (November 2012, December 2012, and January 2013 through April 2013); Tennessee (December 2012); West Virginia (December 2012); New York (January 2013); Indiana (February 2013); and South Carolina (February 2013).²² Based on USAC's analysis, i-wireless allegedly had 1,684 intra-company duplicate lines for which i-wireless sought Lifeline reimbursement support.²³ According to USAC, these requests allegedly resulted in \$24,358 in overpayments to i-wireless over the months covered by the IDVs.²⁴

7. On December 11, 2013, the Commission issued a Notice of Apparent Liability for Forfeiture proposing a forfeiture penalty of \$8,753,074 against i-wireless for alleged willful and repeated violations of Sections 54.407, 54.409, and 54.410 of the Rules²⁵ by allegedly requesting and/or receiving Lifeline support for allegedly ineligible subscriber lines identified in the IDVs.²⁶ The Company submitted a response to the *i-wireless* NAL on January 10, 2014, denying the allegations and seeking cancellation or reduction of the proposed forfeiture.²⁷ The Parties negotiated the following terms and conditions of settlement and hereby enter in this Consent Decree as provided below.

III. TERMS OF AGREEMENT

8. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Commission in an Adopting Order.

9. **Jurisdiction.** i-wireless agrees that the Commission has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

10. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order adopted by the Commission.

11. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Commission agrees to terminate the Investigation. In consideration for the termination of the Investigation, i-wireless agrees to the terms, conditions, and procedures contained herein. i-wireless further agrees that it will not challenge, and the Commission agrees that it will not pursue an investigation or action related to, USAC's determinations regarding i-wireless's Lifeline reimbursement requests identified in Attachment 1 hereto, and i-wireless hereby withdraws all pending appeals of the same. The Commission further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new

²⁰ *i-wireless* NAL, 28 FCC Rcd at 15383, para. 8. Other service areas served by i-wireless are not at issue in this enforcement action.

²¹ *i-wireless* NAL, 28 FCC Rcd at 17118, para. 6. See also 47 CFR § 54.407; *Lifeline Reform Order*, 27 FCC Rcd at 6786-87, paras. 302-03.

²² *Id.* at 15384, para. 9.

²³ *Id.*

²⁴ *Id.*

²⁵ See generally *i-wireless* NAL. See also 47 CFR §§ 54.407, 54.409, 54.410.

²⁶ See generally *i-wireless* NAL.

²⁷ Letter from John J. Heitmann, Counsel to i-wireless, LLC, to Marlene H. Dortch, Secretary, FCC (Jan. 10, 2014) (on file in EB-IHD-13-00010656) (*NAL Response*).

proceeding, formal or informal, or take any action on its own motion against i-wireless concerning the matters that were the subject of the Investigation. The Commission also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any proceeding, formal or informal, or to set for hearing the question of i-wireless's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.²⁸

12. **Stipulation.** i-wireless stipulates for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions in paragraph 11 herein, that it sought reimbursement for certain subscribers who had improperly certified eligibility in violation of the Commission's rules prohibiting duplicative support. This Consent Decree shall not be used as evidence or precedent in any action or proceeding, except an action to enforce this Consent Decree, and does not constitute a finding of law or fact. The Parties agree this Consent Decree is for settlement purposes only and does not constitute an adjudication on the merits or a factual or legal determination regarding compliance or non-compliance.

13. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, i-wireless shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan, including the Compliance Training Program, and ensuring that i-wireless complies with the terms and conditions of the Compliance Plan and this Consent Decree. The Compliance Officer shall regularly assess the compliance efforts and performance of i-wireless and any Covered Third Party. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Lifeline Rules prior to assuming his/her duties. The Compliance Officer's salary or bonus shall not be related in any manner to sales. Any vendor that i-wireless uses to perform tasks associated with compliance with the Lifeline Rules will be subject to the Compliance Officer's oversight.

14. **Compliance Plan.** For purposes of settling the matters set forth herein, i-wireless agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Lifeline Rules and with the terms and conditions of this Consent Decree. With respect to the Lifeline Rules, i-wireless will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, i-wireless shall establish Operating Procedures that all Covered Employees and Covered Third Parties must follow to help ensure i-wireless's compliance with the Lifeline Rules. i-wireless's Operating Procedures shall include internal procedures and policies specifically designed to ensure that applicants for Lifeline service and Covered Employees and Covered Third Parties have not violated the Commission's Rules prohibiting duplicate support. i-wireless shall also develop a Compliance Checklist that describes the steps a Covered Employee and Covered Third Party must follow to ensure compliance with the Lifeline Rules, including those prohibiting duplicate support. i-wireless's Operating Procedures also shall include the following:
 - i. Agent Identifiers: All Covered Employees and Covered Third Parties involved with sales, marketing, and/or enrollment of new Lifeline customers shall be required to have individual numerical codes or other identifiers, which must be recorded when a Covered Employee

²⁸ See 47 CFR § 1.93(b).

or Covered Third Party processes an i-wireless Lifeline customer enrollment form.²⁹

- ii. Responsibility for Agents: i-wireless will accept legal responsibility with respect to compliance with the Lifeline Rules for the sales, marketing, and/or enrollment activities of all i-wireless Lifeline personnel and its Agents.
 - iii. Agent Phishing: All Covered Employees and Covered Third Parties shall be expressly prohibited from signing themselves up for Lifeline, or entering their own information into NLAD.
 - iv. Whistleblowers: i-wireless will create procedures for Covered Employees and Covered Third Parties to anonymously report wrongdoing by the company by providing the Commission Whistleblower Hotline's phone number to all employees.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees and Covered Third Parties. The Compliance Manual shall explain the Lifeline Rules and set forth the Operating Procedures that Covered Employees and Covered Third Parties shall follow to help ensure i-wireless's compliance with the Lifeline Rules. i-wireless shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. i-wireless shall distribute any revisions to the Compliance Manual promptly to all Covered Employees and Covered Third Parties.
- (c) **Compliance Training Program.** i-wireless shall establish and implement a Compliance Training Program on compliance with the Lifeline Rules, including eligibility and self-certification requirements for Lifeline consumers, and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of i-wireless's obligation to report any noncompliance with the Lifeline Rules under paragraph 15 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees and Covered Third Parties shall be trained pursuant to the Compliance Training Program within ninety (90) calendar days after the Effective Date, except that any person who becomes a Covered Employee or Covered Third Party at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee or Covered Third Party and, in any event, before such person is permitted to engage in sales transactions. i-wireless shall repeat compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

15. **Reporting Noncompliance.** i-wireless shall report any noncompliance with the Lifeline Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that i-wireless has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that i-wireless has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal

²⁹ When i-wireless begins to use the National Lifeline Eligibility Verifier in a geographic area in which it provides Lifeline service, this obligation will be superseded.

Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov and to Celia.Lewis@fcc.gov.

16. **Compliance Reports.** i-wireless shall file compliance reports with the Commission one-hundred and twenty (120) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of i-wireless's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Lifeline Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as a representative of and on behalf of i-wireless, stating that the Compliance Officer has personal knowledge that i-wireless: (1) has established and implemented the Compliance Plan; (2) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (3) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 15 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.³⁰
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as a representative of and on behalf of i-wireless, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (1) each instance of noncompliance; (2) the steps that i-wireless has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (3) the steps that i-wireless has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov, and Celia.Lewis@fcc.gov.

17. **Termination Date.** The requirements set forth in paragraphs 13 through 16 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

18. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act³¹ against i-wireless or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by i-wireless with the Communications Laws.

19. **Settlement Amount.** i-wireless agrees to pay a settlement amount to the United States Treasury in the amount of seven hundred fifty thousand dollars (\$750,000). Such payment shall be made in 36 installments (each an Installment Payment). The first Installment Payment in the amount of twenty

³⁰ 47 CFR § 1.16.

³¹ 47 U.S.C. § 208.

thousand eight hundred forty-five dollars (\$20,845) payable to the United States Treasury is due within thirty (30) calendar days of the Effective Date. Thereafter, subsequent Installment Payments of twenty thousand eight hundred thirty-three dollars (\$20,833) will be due on the first calendar day of each subsequent month. i-wireless acknowledges and agrees that upon execution of this Consent Decree, the settlement and each Installment Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).³² Upon an Event of Default (as defined below), all procedures for collection as permitted by law may, at the Commission's discretion, be initiated.

i-wireless shall send electronic notification of the payment to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov, and Celia.Lewis@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the respective Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³³ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

20. **Event of Default.** i-wireless agrees that an Event of Default shall occur upon the failure by i-wireless to pay the full amount of any Installment Payment on or before the due date specified in this Consent Decree.

21. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the settlement amount shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75 percent, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the settlement amount, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of

³² Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

³³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

collection, litigation, and attorneys' fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by i-wireless.

22. **Waivers.** As of the Effective Date, i-wireless waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. i-wireless shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither i-wireless nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and i-wireless shall waive any statutory right to a trial de novo. i-wireless hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act³⁴ relating to the matters addressed in this Consent Decree.

23. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

24. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

25. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which i-wireless does not expressly consent) that provision will be superseded by such Rule or Order.

26. **Successors and Assigns.** i-wireless agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

27. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding regarding any compliance or noncompliance with the requirements of the Communications Laws.

28. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

29. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

30. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

³⁴ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

31. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Rosemary C. Harold, Chief
Enforcement Bureau

Date

John Willis
Chief Operating Officer
i-wireless, LLC

Date

ATTACHMENT 1

i-wireless		
IDV Phase(s)	Data Month and State	Date Appeal was Filed
Phase 16	Feb. 2013 (NV)	Dec. 30, 2013
Phase 17	Mar. 2013 (GA)	
Phase 18	Mar. 2013 (NC, KY, and OH)	Feb. 27, 2014
Phase 19	Apr. 2013 (AL and KS)	
Phase 20	Apr. 2013 (MI and NY)	

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN
APPROVING IN PART AND DISSENTING IN PART**

Re: *i-wireless, LLC*, Order, EB-IHD-13-00010656

Waste, fraud, and abuse must not be tolerated in any of our Universal Service programs, which is why I will vote to approve these consent decrees. This company has repaid what it wrongfully claimed from USF and voluntarily agreed to remit to the Treasury several multiples of the harm done to the Fund. This investigation and its overall finding represent an efficient use of the Commission's resources, and we eliminate uncertainty for these companies while strongly reinforcing our expectations of Lifeline providers.

However, I am forced to also register a dissent in this case, because while I believe the Commission should have taken strong and decisive action, the Enforcement Bureau under this Chairman continues to show bias. It essentially gives hall passes to large, well-known corporations when wrongdoing is found, while it fines little-known small businesses and individuals substantial sums of money for harms which are often substantially narrower. When a company or an individual violates our rules, they should be punished, but that punishment should fit the offense. Any wrongdoing committed by a provider that has accepted an obligation to serve the public, should be fairly and consistently met with forfeitures and negotiated settlements that are more than a mere slap on the wrist. Large corporations simply view relatively meager fines as a mere nuisance expense. My wish for the season? That we stop this seemingly preferential trend that consistently benefits one class of provider, and that the Commission's rules are vigorously and fairly enforced for all.