

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Total Call Mobile, Inc.
Designated Eligible Carrier
Application

Case No. PU-12-820

ORDER ON ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

December 18, 2013

Preliminary Statement

On December 20, 2012 Total Call Mobile, Inc. (Total Call), a Delaware Corporation with its principal offices located at 1411 W. 190th Street, Suite 700, Gardena, California, 90248, filed an application for designation as an eligible telecommunications carrier (ETC) for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. This designation is also known as Lifeline-only ETC designation. Total Call proposed to provide prepaid Lifeline universal services to qualifying low income customers as a commercial mobile radio service (CMRS) carrier throughout every telephone exchange in North Dakota.

On January 30, 2013, the Commission issued a Notice of Opportunity for Hearing (Notice) providing until March 19, 2013 for comments and requests for hearing. No comments or requests for hearing were received. The Notice identified the issues to be considered in this matter are:

1. Is the applicant qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding?
2. What ETC universal service support area should be designated?
3. Is designation of the applicant as an ETC in the public interest?

The Notice stated that the Commission can determine the matter without a formal hearing.

On July 15, 2013, the Commission requested additional information and submitted a certification to Total Call for its signature. On November 1, 2013 the Company provided its responses as well as a signed certification relating to order provisions.

On December 4, 2013, the Commission held an Informal Hearing to discuss the issues with Total Call.

ETC Designation

The Telecommunications Act of 1996 provides financial support for universal services to common carriers that have been designated as ETCs and that (1) offer the universal services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services and (2) advertise the universal services, advertise the availability of such services, and advertise the charges for such services, using media of general distribution.

In its *Report and Order and Further Notice of Proposed Rulemaking* released February 6, 2012 in Docket No. FCC 12-11 at paragraph 368, the Federal Communications Commission found that it would forbear from the "own-facilities" requirement contained in section 214(e)(1)(A) for carriers that seek to become, Lifeline-only ETCs, subject to the following conditions: (1) the carrier must comply with certain 911 requirements and (2) the carrier must file, and the FCC must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement Lifeline service obligations as well as further safeguards against waste, fraud and abuse the FCC may deem necessary.

Under 47 CFR 54.201, a carrier seeking Lifeline-only ETC designation must demonstrate that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Subpart E. Total Call is seeking Lifeline-only ETC designation. Total Call is not seeking high-cost support as part of its ETC Application.

Both federal law and state law give the Commission the authority to designate a common carrier as an ETC. In areas served by a rural telephone company, the Commission must find that ETC designation is in the public interest.

Total Call, based in Gardena, California, was organized and incorporated in the State of Delaware on August 11, 2005. Total Call is a common carrier and reseller of commercial mobile radio service, and will offer all of the services and functionalities detailed in Section 54.101(a) of the FCC Rules. Total Call focuses its telecommunications services primarily to qualified low-income subscribers and provides services to both Lifeline and non-Lifeline customers. Total Call is therefore not exclusively dependent on universal service funds for its revenue.

Total Call provides wireless services in 49 states. Total Call is currently authorized as a lifeline only wireless ETC in 17 states and has approximately 125,000 Lifeline only wireless customers. Total Call has the financial support of its parent company, KDDI of America, which is a subsidiary of KDDI of Japan, the second largest carrier in Japan. Total Call's parent company and its affiliates provide mobile services (voice and data) and fixed line services (broadband, domestic and international telecommunications and data center services in Japan and globally. Total Call has not been subject to any enforcement action at the FCC or in any state.

Total Call has resale agreements with Sprint, and will be using their network to provide wireless services in North Dakota.

Total Call will offer qualified consumers five Lifeline Plan choices:

1. 150 Minute Plan: Under this plan, eligible customers receive a free handset, 150 anytime minutes per month for either domestic calls or international calling to 250 locations for no additional per minute charge. As an option, customers may use text, inbound or outbound, which consumes 1 Plan minute. Additional usage is priced at 10 cents per minute and 5 cents per text. Except for the 250 included international locations, there is an additional per minute charge to make international calls.
2. 250 Minute Plan: Under this plan, eligible customers receive a free handset and 250 anytime minutes per month. As an option, customers may use text, inbound or outbound, which consumes 1 Plan minute. Additional usage is priced at 10 cents per minute and 5 cents per text.
3. Discounted Regular Plans: Eligible customers receive a free handset and may apply the Company's Lifeline discount of \$10.00 (i.e. which is greater than the \$9.25 currently provided by the FCC) to the Company's 1000 Talk & 1000 Text retail plan which costs \$29.99 prior to the application of the discount.
4. 30-day Unlimited Talk & Text retail plan: The cost of this plan is \$39.99 and is similar to Plan 3, i.e. the Company's discount for lifeline eligible customers is applied to reduce the monthly costs and the customers receive a free handset.
5. 30-day Unlimited Talk, Text & Data retail plan: The cost of this plan is \$49.99 and is similar to Plans 3 and 4 above, i.e. the Company's discount for lifeline eligible customers is applied to reduce the monthly costs. The customer still receives a free handset.

Total Call seeks only Lifeline support from the low-income mechanism of the federal Universal Service Fund and does not seek support from the high-cost support mechanism. This program is designed to reduce the monthly cost of telecommunication services for eligible consumers, is distributed on a per-customer basis, and is directly reflected in the price that the eligible customer pays. Because Total Call does not seek support from the high-cost support mechanism, designation of Total Call as a Lifeline-only ETC will not pose any adverse effect on the growth in the high-cost portions of the Universal Service Fund (USF), nor will it create or contribute to an erosion of high-cost funding from any rural or non-rural telephone company. Increasing the number of designated Lifeline-only ETCs in North Dakota will provide the opportunity for increased participation by qualified consumers in the Lifeline program.

NDAC § 69-09-05-12(6)(a) requires a full description of available services in the ETC's official telephone directory. Since Total Call is a CMRS provider, it does not have an official telephone directory in North Dakota and requests a waiver from this requirement pursuant to NDAC §§ 69-09-05-12(2)(c) and (d).

Total Call filed a Compliance Plan with the FCC on May 17, 2012. The FCC approved Total Call's Compliance Plan on May 25, 2012, and thereby granted Total Call

forbearance from the statutory requirement that Total Call provide service using its own facilities in order to be designated as a Lifeline-only ETC.

The Certification Relating to Order Provisions as signed by Hideki Kato, Chief Operating Officer of Total Call Mobile, Inc. and filed on November 1, 2013 is incorporated by reference and attached to this order.

Consumers qualifying for the Lifeline discounts offered by Total Call will receive the benefits of nationwide and international calling areas and the convenience and security of mobile telephone service. Total Call will bring increased customer choice and the benefits of competition.

Universal Service Support Area

The Commission must establish a geographic area (service area) for the purpose of determining universal service obligations and support mechanisms for the designated ETC. 47 U.S.C. § 214(e)(5).

The Act defines service area:

SERVICE AREA DEFINED-- The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

In its *Memorandum Opinion and Order*, FCC 13-44, released April 15, 2013, the Federal Communications Commission has determined that carriers may be designated as a Lifeline-only ETC in partial rural service areas.

In this proceeding, Total Call is requesting ETC designation throughout the state of North Dakota.

Total Call has demonstrated that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Subpart E.

Based on the evidence in this proceeding, Total Call is qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E.

It is in the public interest that Total Call be designated as a Lifeline-only ETC in all North Dakota telephone exchanges.

Total Call is registered with the Commission to provide commercial mobile radio and long distance services.

Total Call is registered with the Secretary of State of North Dakota and is in good standing.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

Order

The Commission orders:

1. Total Call Mobile, Inc. is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. The designated service area in this proceeding consists of all study areas in North Dakota.
2. Total Call Mobile, Inc. shall comply with the applicable annual reporting requirements set forth in North Dakota Administrative Code §69-09-05-12.1.
3. Under North Dakota Administrative Code §69-09-05-12(2)(c) and (d), Total Call Mobile, Inc. is granted a waiver of the requirements of North Dakota Administrative Code § 69-09-05-12(6)(a) regarding the publication of a full description of its services in an official telephone directory.
4. Until further notice, Total Call Mobile, Inc. shall file at least annually, or more often if requested by the Public Service Commission, a complete list of Total Call's customers and waivers, including North Dakota Department of Human Services Department Form SFN 1059, Authorization for Release of Information 449-55-05, for each customer on the list.

PUBLIC SERVICE COMMISSION



Randy Christmann
Commissioner



Brian P. Kalk
Chairman



Julie Fedorchak
Commissioner

STATE OF NORTH DAKOTA
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CERTIFICATION

I am Hideki KATO, a representative of Total Call Mobile, Inc. (TCM) with authority to bind TCM and I certify that:

1. TCM understands and agrees to the conditions and criteria set forth in Chapter 49-21 of the North Dakota Century Code and Chapter 69-09-05 of the North Dakota Administrative Code that pertain to Wireless Lifeline Only Eligible Telecommunications Carriers (ETC), and that TCM will be responsible for compliance with this Certification, the Public Service Commission's order designating TCM as an ETC, and conditions and criteria set forth in the applicable federal and state laws and rules pertaining to Eligible Telecommunications Carriers offering Lifeline Only services.
2. TCM agrees to comply with all statements, processes and procedures set forth in its Application for designation as an ETC in the non-rural and rural wire centers in North Dakota identified in its Application. TCM agrees that all statements made and matters set forth in its Application are true and correct to the best of TCM's knowledge, information, and belief.
3. TCM will use the federal low-income universal service support it receives only for the provision of services for which the support is intended.
4. TCM meets all of the prerequisites to be designated as an ETC throughout its proposed ETC Designated Area in the state of North Dakota.
5. TCM provides each of the services supported by federal universal service support mechanisms, specified in Federal Communications Commission's (FCC's) rules, 47 C.F.R. § 54.101, and will offer these supported services in North Dakota upon designation as an ETC, including voice grade access, minutes of use for local service at no additional charge, access to emergency services and toll limitation services.
6. TCM will provide the supported services on a timely basis to requesting customers within TCM's designated service area where TCM's underlying carriers' network exists.

7. TCM will provide service within a reasonable period of time, if the potential customer is within TCM's proposed designated service area but outside its existing network coverage, if service can be provided at reasonable cost by:
 - (a) Modifying or replacing the requesting customer's equipment;
 - (d) Adjusting network or customer facilities; or
 - (e) Reselling services from another carrier's facilities to provide service.
8. TCM is not seeking Universal Service Fund high-cost support as part of its Application.
9. TCM will use all available means to ensure customers are eligible for the Lifeline program at the time of sign-up and recertification in accordance with the federal default eligibility criteria in 47 C.F.R. § 54.409(2) and the relevant proof documentation specified in 47 C. F. R. § 54.410. TCM will check all available databases including the FCC's National Accountability Database and the National Lifeline Eligibility Database when fully functional to prevent duplication and determine eligibility.
10. TCM has taken, and will continue to take, steps to work with its underlying carriers to remain functional in emergency situations by: (1) maintaining a reasonable amount of backup power to ensure functionality without an external power source; (2) maintaining the ability to re-route traffic around damaged facilities and to manage traffic spikes resulting from emergency situations; and (3) establishing procedures for employees to follow in an emergency to prevent or minimize interruption or impairment of telecommunications services.
11. TCM will meet or exceed applicable consumer protection and quality standards and will comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.
12. TCM will advertise the availability of the supported services detailed in its Application, and the corresponding rates and charges, in a manner designed to inform the general public within North Dakota. This advertising will occur through a combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet.
13. TCM will offer the services described in its Application.
14. TCM understands and agrees that if TCM has not advertised its Lifeline services or signed up any North Dakota customers within 12 months of the effective date of TCM's designation as a Lifeline-only ETC, the Public Service Commission may revoke TCM's ETC designation and TCM may reapply to be designated as a Lifeline-only ETC in North Dakota.

15. TCM understands and agrees that it may be required by the FCC to provide equal access to long distance carriers in the event that no other ETC provides equal access within TCM's designated ETC service area.
16. TCM will comply with all applicable annual reporting requirements associated with being an ETC in North Dakota including filing with the Public Service Commission a copy of each report filed with the FCC, within 30 days of filing with the FCC.
17. TCM will file at least annually or more often if requested by the Public Service Commission, a complete list of its customers and waivers, including North Dakota Department of Human Services' Form SFN 1059, Authorization for Release of Information 449-55-05, for each customer on the list.
18. TCM understands and agrees that its ability to offer service is subject to suspension or revocation for failure to comply with the Public Service Commission's orders, or applicable statutes, rules, regulations, standards, and other authorizations.
19. TCM agrees to maintain the records to demonstrate that TCM has complied with the requirements of the Public Service Commission's order(s) and that TCM will preserve records demonstrating compliance for Public Service Commission inspection at any reasonable time upon reasonable notice.
20. TCM understands and agrees that, to the extent there are any conflicts or inconsistencies between TCM's Application and the provisions in this Certification, the Certification provisions control.

Dated this 31st day of October, 2013.

~~TCM-WIRELESS, LLC~~ TOTAL CALL MOBILE, INC.

By Hideki KATO


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Its _____