

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Telrite Corporation
Designated Eligible Carrier
Application

Case No. PU-13-51

ORDER ON ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

July 30, 2013

Preliminary Statement

On January 18, 2013, Telrite Corporation (Telrite), a Georgia corporation with its principal offices located at Covington, Georgia, 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. Such designation is also known as Lifeline-only ETC designation. Telrite proposes to provide prepaid Lifeline universal services to qualifying low income customers, under the trade name Life Wireless, as a commercial mobile radio service (CMRS) carrier in North Dakota wire centers.

On February 13, 2013, the Commission issued a Notice of Opportunity for Hearing (Notice) providing until March 27, 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 April 10, 2013, the Commission held an Informal Hearing to discuss the issues with Telrite.

On April 22, 2013, Telrite filed a certification of Brian Lisle, President of Telrite Corporation, in support of the application.

Also on April 22, 2013, Telrite filed an amended Exhibit A, which identifies the North Dakota telephone exchanges where Telrite proposes to provide Lifeline service. The list includes all North Dakota telephone exchanges.

On May 9, 2013 the Commission held a work session to further discuss the application. As a result of this work session, the Commission Staff was to do research on what additional conditions the Commission could impose on Wireless Lifeline Only ETCs.

On June 5, 2013 the Commission held a second work session in regards to Wireless Lifeline Only ETCs. As a result, all Wireless Lifeline Only ETCs would be asked to provide additional information for the record and sign a certification relating to order provisions.

On July 16, 2013 Telrite submitted its responses to the additional information requests and a signed certification relating to order provisions.

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. Telrite is seeking Lifeline-only ETC designation. Telrite 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.

Telrite, based in Covington, Georgia, was organized and incorporated in the State of Georgia on February 1, 2000. Telrite 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. Telrite began offering Lifeline service to customers in October, 2010. In 2011, Telrite offered wireline local and long distance services to approximately 30,000 customers. Telrite has been providing wireline local and long distance services for over 10 years. Telrite currently has 43 long distance customers in North Dakota. Telrite is currently authorized to do business in 17 states.

Telrite has access to sufficient funds to run its business and is not solely dependent on reimbursements from the Universal Service Fund. Telrite owns and operates its own switching facilities in Marietta, GA.

Telrite has a resale agreement with AT&T and will be using AT&T's network to provide wireless services in North Dakota.

Telrite will offer telecommunications services primarily to qualified low-income subscribers.

Telrite will offer qualified consumers their choice of a 125 or a 250 anytime prepaid minutes per month Lifeline Service Plan at no charge as well as a free handset. Minutes do not expire for the 125 minute plan and unused minutes are rolled over to the next month. Unused minutes for the 250 minute plan do not roll over. In addition to free voice services, Telrite's Lifeline plan includes custom calling features at no charge, including Caller ID, Call Waiting, Call Forwarding, 3-Way Calling, Voice Mail, No Roaming charges and free access to Customer Care by dialing 611 from the customer's Life Wireless handset or by dialing 1-888-543-3620 from any wireline phone. Calls to 911 emergency services are free regardless of service activation or availability of minutes. Telrite offers additional services such as text messaging at an additional prepaid charge.

Telrite 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 Telrite does not seek support from the high-cost support mechanism, designation of Telrite 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 nonrural 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 Telrite 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).

Telrite filed a Compliance Plan with the FCC on March 12, 2012. Revisions to this plan were filed on April 10, April 27, July 2, July 27, November 28, November 29 and December 19th. The FCC approved Telrite's Compliance Plan on December 26, 2012, and thereby granted Telrite forbearance from the statutory requirement that Telrite 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 Brian Lisle, President of Telrite Corporation and filed on July 16, 2013 is incorporated by reference and attached to this order.

As a showing of need and public benefit for ETC designation, Telrite states that there are currently approximately 50,000 North Dakota households eligible for Lifeline that are not receiving the benefit.

Consumers qualifying for the Lifeline discounts offered by Telrite will receive the benefits of nationwide calling areas and the convenience and security of mobile telephone service. Telrite 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, Telrite is requesting ETC designation in all North Dakota telephone exchanges.

Telrite 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, Telrite 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 Telrite be designated as a Lifeline-only ETC in all North Dakota telephone exchanges.

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

Telrite is registered with the Secretary of State of North Dakota under its trade name Life Wireless 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 that:

1. Telrite Corporation 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. Telrite Corporation shall comply with the applicable annual reporting requirements set forth in NDAC §69-09-05-12.1.
3. Pursuant to NDAC §69-09-05-12(2)(c) and (d), Telrite Corporation is granted a waiver of the requirements of NDAC § 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, Telrite 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 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

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CERTIFICATION

I am Brian Lisle, a representative of Telrite Corporation (Telrite) with authority to bind Telrite and I certify that:

1. Telrite 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 Telrite will be responsible for compliance with this Certification, the Public Service Commission's order designating Telrite 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. Telrite 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. Telrite agrees that all statements made and matters set forth in its Application are true and correct to the best of Telrite's knowledge, information, and belief.
3. Telrite will use the federal low-income universal service support it receives only for the provision of services for which the support is intended.
4. Telrite meets all of the prerequisites to be designated as an ETC throughout its proposed ETC Designated Area in the state of North Dakota.
5. Telrite 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. Telrite will provide the supported services on a timely basis to requesting customers within Telrite's designated service area where Telrite's underlying carriers' network exists.

7. Telrite will provide service within a reasonable period of time, if the potential customer is within the applicant'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. Telrite is not seeking Universal Service Fund high-cost support as part of its Application.
9. Telrite 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. Telrite will check all available data bases including the FCC's National Accountability Database and the National Lifeline Eligibility Database when fully functional to prevent duplication and determine eligibility.
10. Telrite 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. Telrite 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. Telrite 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. Telrite will offer the services described in its Application.
14. Telrite understands and agrees that if Telrite has not advertised its Lifeline services or signed up any North Dakota customers within 12 months of the effective date of Telrite's designation as a Lifeline-only ETC, the Public Service Commission may revoke Telrite's ETC designation and Telrite may reapply to be designated as a Lifeline-only ETC in North Dakota.

15. Telrite 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 Telrite's designated ETC service area.
16. Telrite 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. Telrite 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. Telrite 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. Telrite agrees to maintain the records to demonstrate that Telrite has complied with the requirements of the Public Service Commission's order(s) and that Telrite will preserve records demonstrating compliance for Public Service Commission inspection at any reasonable time upon reasonable notice.
20. Telrite understands and agrees that, to the extent there are any conflicts or inconsistencies between Telrite's Application and the provisions in this Certification, the Certification provisions control.

Dated this 30th day of July, 2013.

TELRITE CORPORATION

By



Brian Lisle

Its President