

**RECEIVED**

FEB 22 2022

North Dakota Public Service Commission  
600 E Boulevard Ave Dept 408  
Bismarck, ND 58505-0480

**NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

Re: Application of Wireless Application for Designation As An Eligible  
Telecommunications Carrier For Purposes of Lifeline Only In The State of North  
Dakota

Public Service Commission:

Attached is a copy of the Application of Torch Wireless for Designation As An Eligible  
Telecommunications Carrier For Purposes of Lifeline Only In The State of North Dakota. Please  
date stamp and send the extra copy of the Application to:

Jorge Perea  
Chief Executive Officer  
4320 Deerwood Lake Parkway – Ste. 101-158  
Jacksonville, FL 32216  
904-720-4505  
[jperea@torchwireless.com](mailto:jperea@torchwireless.com)

1 **PU-22-84** Filed: 2/22/2022 Pages: 15

**Application for Designation as Eligible  
Telecommunications Carrier - Lifeline Only**

Torch Wireless

Jorge Perea, CEO

**BEFORE THE  
NORTH DAKOTA PUBLIC SERVICE COMMISSION**

Application of Torch Wireless )  
For Designation as an Eligible )  
Telecommunications Carrier for Purposes ) Docket No.  
of Lifeline Only in the State of North Dakota )

**APPLICATION OF TORCH WIRELESS FOR DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER FOR PURPOSES OF  
LIFLEINE ONLY IN THE STATE OF NORTH DAKOTA**

Torch Wireless (“Torch Wireless” or “Company”) respectfully submits this Application for Designation as an Eligible Telecommunications Carrier for purposes of federal Lifeline only support in the state of North Dakota (“Application”) pursuant to 47 USC § 214(e)(2), 47 CFR Part 54 of the rules of the Federal Communications Commission (“FCC”), and N.D. Cent. Code § 49-21-01.7(12). Torch Wireless is a Commercial Mobile Radio Service (“CMRS”) provider that uses the last mile facilities of other wireless providers to make available to consumers the best coverage and services to meet their needs. Torch Wireless requests the North Dakota Public Service Commission (“NDPSC”) designate it as an ETC for the limited purpose of providing Lifeline service in the non-rural telephone company wire centers and the rural telephone company study areas identified in Attachment A (“ETC Service Area”). As discussed herein, Torch Wireless seeks ETC designation solely for the purpose of obtaining federal Lifeline universal service support to serve eligible low-income customers.

As discussed in more detail herein, Torch Wireless meets the statutory and regulatory requirements for designation as an ETC to provide Lifeline-supported services throughout its ETC Service Area. Wireless service has become a necessity for low-income consumers who rely on wireless service for their basic communications needs. Granting ETC status to Torch Wireless

will significantly benefit the public interest and low-income consumers by making available wireless Lifeline services for low-income consumers.

Torch Wireless demonstrates herein that it meets the requirements for designation as an ETC under the rules of the NDPSC and the FCC. In support of this Application, and pursuant to N.D. Admin. Code § 69-09-05-12, Torch Wireless provides the following information:

Name, address and telephone number of the applicant and its designated contact person:

Torch Wireless  
Jorge E. Perea, Chief Executive Officer  
4320 Deerwood Lake Parkway, Suite 101-158  
Jacksonville, FL 32216  
Phone: (904) 720-4505  
Fax: (904) 584-9026  
[jperea@torchwireless.com](mailto:jperea@torchwireless.com)

ETC Service Area. The non-rural telephone company wire centers and the rural telephone company study areas identified in Attachment A comprise Torch Wireless's proposed ETC Service Area.

ETC Requirements and Public Interest. Torch Wireless demonstrates herein that it meets all applicable requirements for designation as an ETC for the limited purpose of providing Lifeline service to eligible low-income consumers. The designation of Torch Wireless as an ETC for the limited purpose of providing Lifeline service is in the public interest because it will make available affordable wireless Lifeline service to eligible low-income consumers. Wireless Lifeline service is critically important for low-income consumers, who use wireless service as a "lifeline" for voice and Internet connectivity. The staff at Torch Wireless has years of experience providing Lifeline service, especially in rural and Tribal areas where consumers do not have access to many of the services available in more urban areas. Torch Wireless is not requesting a waiver of any requirement for designation as an ETC for purposes of Lifeline support, except the requirement to

advertise in its telephone directory. As a competitive carrier, Torch Wireless does not produce or use a telephone directory and therefore requests a waiver of the advertising requirement in N.D. Admin. Code § 69-09-05-12.6.a.

Registration and Bond. Torch Wireless does not currently provide service in North Dakota, but will register as a wireless provider with the NDPSC and will register as a foreign company with the North Dakota Secretary of State office prior to commencing operations. In addition, Torch Wireless will secure any necessary Telecommunications Reseller's Bond to operate as a prepaid wireless provider.

#### **OVERVIEW OF TORCH WIRELESS AND ITS LIFELINE SERVICE**

1. Torch Wireless is a Wyoming corporation with principal offices in Jacksonville, Florida. Torch Wireless has been designated as an ETC in the states of Idaho and Wisconsin.
2. Torch Wireless offers low-income consumers prepaid wireless service without hidden costs, without varying monthly charges, and no contractual commitments. Consumers are able to customize their mobile phone service to suit their needs depending upon their voice, text and data needs. Torch Wireless has been providing Lifeline service with a focus on rural and Tribal areas since September of 2016. The Company has never been subject to any complaints, fines or enforcement action, and is in compliance with all applicable Lifeline requirements, including enrollment and eligibility requirements implemented by the Universal Service Administration Company ("USAC").

#### **TORCH WIRELESS SATISFIES THE REQUIREMENTS FOR ETC DESIGNATION**

3. Torch Wireless meets the requirements for designation as an ETC under the rules of the N.D. Admin. Code § 69-09-05-12 and the FCC.

4. 47 USC § 214(e)(2) provides for the designation of carriers as ETCs for purposes of receiving universal service support, provided the requesting carrier (i) offers services supported by federal universal service support mechanisms and (ii) advertises the availability of such services.<sup>1</sup> The NDPSC and the FCC have also adopted requirements for the designation of carriers as ETCs.<sup>2</sup> As demonstrated below, Torch Wireless satisfies all applicable requirements for designation as an ETC for purposes of Lifeline only support and the public interest would be greatly served by making available Torch Wireless' wireless Lifeline service for low-income consumers.

#### Torch Wireless Is a Common Carrier

5. Torch Wireless operates as a common carrier as defined in 47 USC § 153(10). As a CMRS provider, Torch Wireless is regulated as a common carrier, subject to all applicable requirements governing common carrier CMRS operations.<sup>3</sup>

#### Torch Wireless Will Provide the Supported Services for Designation as an ETC

6. Voice telephony services and broadband Internet access services are the supported services under the federal universal service system.<sup>4</sup>

7. Torch Wireless provides each of the services included in the definition of voice telephony services, including:<sup>5</sup>

- Voice grade access to the public switched network;
- Local usage;
- Access to emergency services; and
- Toll limitation for qualifying low-income consumers.

---

<sup>1</sup> See 47 CFR § 54.201(d).

<sup>2</sup> See N.D. Admin. Code § 69-09-05-12; 47 CFR Part 54.

<sup>3</sup> 47 USC § 332(c)(1)(A); 47 CFR § 20.9.

<sup>4</sup> 47 CFR § 54.101(a).

<sup>5</sup> 47 CFR § 54.101(a)(1).

8. Torch Wireless will provide voice grade access to the public switched network, enabling Torch Wireless' customers to make and receive calls on the public switched telephone network.

9. Torch Wireless will also meet the requirements for local usage by offering a local usage plan comparable to the one offered by the incumbent local exchange carriers.<sup>6</sup>

10. Consumers will have access to emergency services, including access to 911 and E911 service where available. All wireless handsets will be 911/E911 compliant. Moreover, Torch Wireless will replace, free of charge, any E911 noncompliant handset owned by consumers looking to obtain Lifeline service from the Company. 911 emergency calls will not incur any usage charge and Lifeline customers will be able to make 911 calls regardless of service activation status or availability of minutes.

11. Torch Wireless does not differentiate between domestic long-distance usage and local usage, so toll limitation service ("TLS") is not necessary to protect customers from incurring unanticipated toll charges. To the extent toll charges are imposed in the future, Torch Wireless will implement TLS.

12. Torch Wireless will also provide Lifeline customers with broadband Internet access service, which the FCC has defined as "the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service."<sup>7</sup>

---

<sup>6</sup> See N.D. Admin. Code § 69-09-05-12.6.e.

<sup>7</sup> 47 CFR § 54.101(a)(2).

13. Torch Wireless will make available to all eligible Lifeline customers, both Tribal and non-Tribal, different options for Lifeline service with varying voice minutes, text messages, and mobile broadband. All Torch Wireless Lifeline rate plans will meet or exceed the FCC's minimum standards for voice and data services.<sup>8</sup> Torch Wireless will not charge an activation fee for Lifeline subscribers and there will be no added charge for domestic toll calls, calls to 911, or calls to customer service, which customers can reach by dialing 611 from their handset or a toll-free number from any phone.

14. Torch Wireless' Lifeline service offerings will significantly benefit low-income consumers, who currently may not have access to any comparable Lifeline rate plans.

Torch Wireless Is a Wireless Provider Qualified to Participate In the Lifeline Program

15. To participate in the Lifeline program, a common carrier must use its own facilities or a combination of its own facilities and resale of another carrier's facilities to provide the supported services.<sup>9</sup> Consistent with the entry of wireless resellers in the Lifeline market, the FCC has granted wireless resellers with blanket forbearance from the facilities requirement for purposes of federal Lifeline support.<sup>10</sup>

16. Torch also owns and maintains some facilities used to provide Lifeline service.

17. Torch Wireless commits to serving all eligible Lifeline consumers throughout its ETC Service Area. Torch Wireless will provide Lifeline services to end user customers in the

---

<sup>8</sup> 47 CFR § 54.408.

<sup>9</sup> 47 USC § 214(d)(1); 47 CFR § 54.201(d)(1).

<sup>10</sup> The FCC granted ETC's forbearance from the facilities requirement on January 31, 2012. ("Upon the effective date of this Order, we grant forbearance from the facilities requirement of section 214(e)(1)(A) of the Act and section 54.201(d)(1), (i) of the Commission's rules, subject to the conditions contained in this Order, to all carriers seeking to provide Lifeline-only service on a non-facilities basis"). See *In the Matter of Lifeline and Link Up Reform and Modernization, et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 at footnote 982, February 6, 2012.

state of North Dakota by using the facilities of other wireless carriers serving geographic areas within Torch Wireless's ETC Service Area.<sup>11</sup> By using the facilities of other carriers, Torch Wireless is able to provide consumers in different geographic locations with the best coverage and service availability.

#### ETC Service Area

18. Torch Wireless's ETC Service Area includes some of the most rural and remote areas in of state, including Tribal Lands. Attachment A includes a list of the non-rural telephone company wire centers and the rural telephone company study areas comprising the Company's ETC Service Area.<sup>12</sup>

#### Torch Wireless Will Comply with Advertising Requirements

19. Torch Wireless will advertise the availability of its services and charges in a manner reasonably designed to reach Lifeline-eligible consumers in accordance with all applicable requirements.<sup>13</sup> Consistent with N.D. Admin. Code § 69-09-05-12.6, the Company will use media of general distribution and, in addition to providing information on its website,<sup>14</sup> will use media sources that include, but are not limited to, point of sale materials, customer direct mail, customer brochures, print media, and community events.

20. As a competitive carrier, Torch Wireless does not produce or use a telephone directory and therefore requests a waiver of the advertising requirement in N.D. Admin. Code §

---

<sup>11</sup> Torch Wireless uses the antenna towers and radio equipment of facilities-based wireless carriers to serve end user customers. As a wireless reseller, the service provisioning requirements for adjusting cell sites and associated equipment would not apply. See N.D. Admin. Code § 69-09-05-12.3.a.

<sup>12</sup> Torch Wireless's ETC Service Area is consistent with the applicable study areas of the underlying rural telephone companies and wire centers of the non-rural telephone company. See N.D. Admin. Code § 69-09-05-12.2.a.

<sup>13</sup> 47 CFR §§ 54.201(d)(2) and 54.405(b).

<sup>14</sup> See [www.torchwireless.com](http://www.torchwireless.com)

69-09-05-12.6.a. to provide a “full description of available services in the eligible telecommunications carrier’s official telephone directory.”

21. Torch Wireless’s marketing materials will state, among other things, in easily understood language, that: (i) the service is a Lifeline service; (ii) Lifeline is a government assistance program; (iii) the service may not be transferred to someone else; (iv) consumers must meet certain eligibility requirements before enrolling in the Lifeline program; (v) the Lifeline program permits only one Lifeline discount per household; (vi) documentation is necessary for enrollment; and (vii) Torch Wireless is the provider of the services.<sup>15</sup>

22. Torch Wireless’s Lifeline customer application and certification form will state that Lifeline is a federal benefit and that consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program. As required by the FCC and USAC, Torch Wireless uses the standard Lifeline Program Application Form 5629 for enrolling eligible consumers into the Lifeline program.<sup>16</sup>

Torch Wireless Complies with the Additional Requirements Under 47 CFR §54.202 and N.D. Admin. Code § 69-09-05-12.6.

23. The FCC adopted additional ETC designation requirements for carriers not subject to state commission jurisdiction,<sup>17</sup> some of which the NDPSC specifically adopted in its rules. Regardless of applicability, Torch Wireless commits to meeting all these requirements.

24. 47 CFR § 54.202(a)(1) requires an applicant to “certify that it will comply with the service requirements applicable to the support that it receives.” Specific to Lifeline service, 47 CFR § 54.410 requires ETCs to comply with certification of eligibility and verification of

---

<sup>15</sup> 47 CFR § 54.405.

<sup>16</sup> See [https://www.usac.org/\\_res/documents/li/pdf/nv/LI\\_Application\\_UniversalForm.pdf](https://www.usac.org/_res/documents/li/pdf/nv/LI_Application_UniversalForm.pdf).

<sup>17</sup> 47 CFR § 54.202.

continued eligibility requirements for Lifeline participation, which Torch Wireless will comply with. Torch Wireless will also comply with all applicable Lifeline requirements, including, but not limited to, not collecting service deposits, not charging a number-portability fee, and meeting all applicable reporting requirements.<sup>18</sup>

25. N.D. Admin. Code § 69-09-05-12.3.c and 47 CFR §54.202(a)(2) requires an applicant to demonstrate it has the ability to remain functional in emergency situations. Torch Wireless certifies that its Lifeline services will remain functional in emergency situations. Torch Wireless' network is redundant with back-office facilities and back-up electrical power is provided. Torch Wireless can manage traffic spikes that may occur during emergency situations and can reroute traffic in the event of damaged facilities. Torch Wireless has sufficient back-up power to ensure functionality if its external power supply is unavailable.

26. N.D. Admin. Code 69-09-05-12.3.d requires a provider to demonstrate that it will satisfy applicable consumer protection and service quality standards.<sup>19</sup> A wireless carrier's commitment to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service ("CTIA Consumer Code") satisfies this requirement. Torch Wireless certifies that it will comply with the CTIA Consumer Code and any applicable North Dakota consumer protection requirements to ensure the Company offers its subscribers the highest level of protection and quality service. The Company will make every effort to resolve complaints expeditiously and will designate a specific contact person to resolve complaints or other compliance issues. Torch Wireless's customers will be able to call customer service by dialing

---

<sup>18</sup> See 47 CFR §§ 54.401 and 54.422.

<sup>19</sup> See also 47 CFR § 54.202(a)(3).

611 from their handset and no minutes will be used or decremented for the call. Customers also will be able to call, a toll-free number from any phone to reach customer service.

27. 47 CFR § 54.202(a)(4) requires an applicant for Lifeline only support to demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with applicable requirements. Among the factors to be considered are: (i) a carrier's prior offering of service to non-Lifeline subscribers, (ii) the length of time the carrier has been in business, (iii) whether the carrier relies exclusively on Lifeline reimbursement to operate, and (iv) whether the carrier receives revenues from other sources.

28. Torch Wireless is a privately held corporation that has been in business since September of 2016. Torch Wireless does not have any holding companies, operating companies, or affiliates. Torch Wireless's key management personnel have decades of combined telecommunications experience, including experience providing local and long-distance services to residents of rural and urban areas and to low-income individuals and families. Torch Wireless' management has extensive experience supporting the provisioning, marketing, fulfillment, and customer service needs of its customer base. Jorge Perea has been in the telecommunications industry for over 20 years, has a proven track record of successfully managing telecommunications companies and is committed to keeping Torch Wireless an enterprise that will serve the public interest. The members of Torch Wireless's management are fully capable of fulfilling the requirements necessary to manage the implementation and ongoing support of this ETC designation.

29. Torch Wireless has demonstrated, over time, its ability to not only provide Lifeline service, but to do so in compliance with all applicable requirements. Torch Wireless has never

been subject to a fine, penalty or enforcement action at the federal or state level related to its provision of Lifeline service.

30. Torch Wireless does not rely exclusively on Lifeline reimbursement to operate, as it receives revenues from other sources which are completely independent from the revenue it receives in the form of Lifeline support. The Company's revenue streams include income from the sale of telecommunications services to other telecommunications firms and residential customers. Because Torch Wireless generates its revenue from a diverse product portfolio and is both financially stable and profitable and does not rely exclusively on Lifeline support for its operating revenues, it is financially capable of providing Lifeline service in compliance with all applicable requirements.

31. 47 CFR § 54.202(a)(5) and 54.202(a)(6) requires a provider to submit information describing the terms and conditions of voice telephony service and broadband Internet access service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, speeds offered, data usage allotments, if any, and rates for each such plan. Torch Wireless' Lifeline rates plans are found on its web page at [www.torchwireless.com](http://www.torchwireless.com) and are continuously updated to provide consumers with the best value for their Lifeline service.

32. Consistent with N.D. Admin. Code 69-09-05-12 and the FCC rules, Torch Wireless will comply with all the reporting and certification requirements of the NDPSC, the FCC, and USAC.<sup>20</sup>

---

<sup>20</sup> Torch Wireless also certifies that it acknowledges that the NDPSC may require it to provide equal access to long-distance carriers pursuant to N.D. Admin. Code 69-09-05-12.3.f.

### The Public Interest Will Be Served by Granting ETC Designation to Torch Wireless

33. The public interest will be served by designating Torch Wireless as an ETC for the limited purpose of providing Lifeline service to low-income consumers in North Dakota. Consumers will benefit from Torch Wireless's high-quality service, competitive pricing and a dedicated focus on low-income consumers who are eligible for Lifeline supported services. Torch Wireless offers low-income consumers a competitive option of no contract/no credit check/no deposit service. Consumers will choose Torch Wireless's service for its high-quality service, value pricing, and overall attention to customer satisfaction. Regulators have long recognized the benefits to consumers of being able to choose from a variety of telecommunications services.<sup>21</sup> The availability of affordable telecommunications services for low-income consumers is critical for public health, safety, and other services. Significantly, unlike national carriers, Torch Wireless's primary focus is on serving rural consumers, including eligible subscribers of Lifeline service. With a long record of serving the needs of rural consumers, including those residing on Tribal lands, Torch Wireless has established itself as a high-quality, consumer-focused, service provider for rural consumers. By designating Torch Wireless as an ETC, the NDPSC will be making available an attractive and affordable wireless service for low-income consumers, including those residing on Tribal lands.

34. Recently, the United States Court of Appeals for the District of Columbia overturned an FCC order limiting Tribal Lifeline support to facilities-based carriers, finding that wireless resellers serve a critical role in providing Lifeline service to Tribal low-income

---

<sup>21</sup> *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (FCC rel. Apr. 27, 2016) (“[W]e expect that increasing provider participation will increase competition among providers in the Lifeline program and incentivize providers to offer better quality services.”).

consumers, which Torch Wireless intends to serve through this ETC application.<sup>22</sup> By designating Torch Wireless as an ETC in North Dakota, including all of the Tribal areas within the state, the NDPSC will be furthering the public interest by making available affordable wireless Lifeline service for low-income consumers.

#### CONCLUSION

Torch Wireless respectfully requests that the NDPSC designate Torch Wireless as an ETC for the limited purpose of providing Lifeline service in the state of North Dakota.

Respectfully submitted,



Jorge Perea, Chief Executive Officer  
4320 Deerwood Lake Parkway, Ste. 101-158,  
Jacksonville, FL 32216  
Phone: (904) 720-4505  
[jperea@torchwireless.com](mailto:jperea@torchwireless.com)

---

<sup>22</sup> *National Lifeline Association, et al., vs. Federal Communications Commission and the United States of America*, Case No. 18-1026, United States Court of Appeals for the District of Columbia, February 1, 2019. Two Dakota entities were parties to this case. The Crow Creek Sioux Tribe was one of the Petitioners, who appealed the FCC Order that was overturned by the Court, and the Oceti Sakowin Tribal Utility Authority intervened in the case in support of the Petitioners.

## **Attachment A**

### **Torch Wireless's Proposed ETC Service Area**

Torch Wireless's Proposed ETC Service Area includes:

- All non-rural telephone company wire centers within the state of North Dakota.
- All rural telephone company study areas within the state of North Dakota, and
- All Tribal areas within the nonrural and rural telephone company areas within the state.