

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Assurance Wireless USA, L.P.
Designated Eligible Carrier
Application

Case No. PU-24-22

ORDER ON ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

August 14, 2024

Preliminary Statement

On January 11, 2024, Assurance Wireless USA, L.P. (Assurance), a Delaware limited partnership with its principal offices located at 12920 Southeast 38th Street, Bellevue, WA 98006, 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. Assurance proposes to provide Lifeline universal services to eligible low-income customers as a commercial mobile radio service (CMRS) carrier throughout its North Dakota coverage map.

On February 7, 2024, the Commission issued a Notice of Opportunity for Hearing (Notice) providing until March 22, 2024, 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 15, 2024, Assurance filed a signed Certification Relating to Order Provisions.

On April 12, 2024, the Commission held an Informal Hearing to discuss the issues with Assurance.

On June 3, 2024, Assurance submitted a supplemental filing.

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. Assurance is seeking Lifeline-only ETC designation.

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.

Assurance, was organized and incorporated in the state of Delaware on October 4, 2001. Assurance is a common carrier of commercial mobile radio service, and will offer all of the services and functionalities detailed in Section 54.101(a) of the FCC Rules. Assurance generates revenues from non-Lifeline services and has access to capital from its investors; and with its affiliated companies, currently provides services to approximately 117.9 million customers. Therefore, Assurance is not solely dependent on reimbursements from the Universal Service Fund. Assurance proposes to provide services to customers by using the underlying networks of its affiliate company T-Mobile USA, Inc. in order to provide the best coverage and service available for subscribers. Assurance is currently authorized as a wireless ETC in the states of Alabama, Arkansas, Arizona, California, Colorado, Connecticut, District of Columbia, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, North Carolina, New Hampshire, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

Assurance will offer telecommunications services primarily to eligible low-income subscribers.

Assurance will offer plan options including 1000 anytime prepaid minutes, unlimited text messages and 4.5GB data at zero net cost to an eligible non-tribal Lifeline customer. Assurance will offer to all customers a free or discounted handset or SIM card, custom calling features at no charge including 911, Caller ID, Call Waiting, Voicemail and the ability to use voice minutes for domestic long distance.

Assurance 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 Assurance does not seek support from the high-cost support mechanism, designation of Assurance 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 eligible 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 Assurance 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).

The Certification Relating to Order Provisions as signed by Robert Stanchina, Senior Director of Assurance and filed on April 15, 2024, is incorporated by reference and attached to this order.

Consumers eligible for the Lifeline discounts offered by Assurance will receive the benefits of nationwide calling areas and the convenience and security of mobile telephone service. Assurance 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 determined that carriers may be designated as a Lifeline-only ETC in partial rural service areas.

In this proceeding, Assurance is requesting ETC designation based upon its coverage map, exclusive of tribal areas, as depicted in Exhibit 3 to its application.

In its June 3, 2024, supplemental filing, Assurance stated the purpose of not including tribal areas in its application is due to their desire to gain agreement from the tribes prior to marketing in tribal areas. Assurance asserted that it is engaged at the national level to reach such agreements. Assurance further stated that it is amenable to including tribal areas in its designated service area.

In order to ensure that Assurance will operate in a non-discriminatory manner in North Dakota, the Commission finds it in the public interest to include tribal areas within its designated service area subject to receiving necessary federal and tribal approvals.

Assurance 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, Assurance 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 Assurance be designated as a Lifeline-only ETC within its coverage map in North Dakota.

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

Assurance is registered with the Secretary of State of North Dakota and Assurance 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. Assurance Wireless USA, L.P. is designated as 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 the shaded areas of its coverage map in North Dakota, inclusive of tribal areas, titled Exhibit 3. Prior to marketing in any tribal areas in North Dakota, Assurance must obtain all necessary federal and tribal approvals.
2. Assurance Wireless USA, L.P. 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), Assurance Wireless USA, L.P. 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. The April 15, 2024, Certification Relating to Order Provisions is incorporated by reference and attached to this Order.
5. Certification Relating to Order Provisions paragraph 16 is modified to state the following: Assurance will comply with all applicable annual reporting requirement 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.
6. Certification Relating to Order Provisions paragraph 18 is modified to state the following: Assurance agrees to maintain the records to demonstrate that Assurance has complied with the requirements of the Public Service Commission's order(s) and that Assurance will preserve records demonstrating compliance for Public Service Commission inspection at any reasonable time upon reasonable notice.
7. Assurance Wireless USA, L.P.'s marketing plan and operations must be conducted in a non-discriminatory manner.

PUBLIC SERVICE COMMISSION

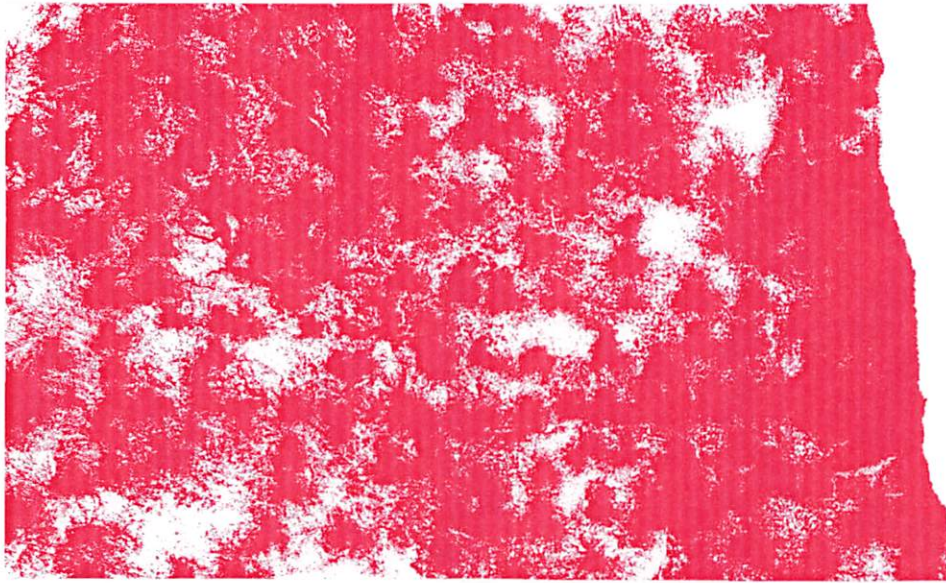

Sheri Haugen-Hoffart
Commissioner



Randy Christmann
Chair


Julie Fedorchak
Commissioner

EXHIBIT 3: ASSURANCE WIRELESS NORTH DAKOTA COVERAGE MAP

North Dakota



 T-Mobile Coverage

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**Assurance Wireless USA, L.P.
CERTIFICATION RELATING TO ORDER PROVISIONS**

I am Robert Stanchina, a representative of Assurance Wireless USA, L.P. (Assurance) with authority to bind Assurance, and I certify that:

1. Assurance is seeking designation as a Lifeline-Only Eligible Telecommunications Carrier (Lifeline-Only ETC) for the coverage area designated in Exhibit 3, which may or may not exactly coincide with some or all incumbent telephone company wire centers within the state of North Dakota, exclusive of Tribal areas.
2. For the proposed designated area, Assurance 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 Lifeline-Only Eligible Telecommunications Carriers (Lifeline Only ETC) , and Assurance will be responsible for compliance with this Certification, the Public Service Commission's order in this proceeding, and conditions and criteria set forth in the applicable federal and state laws and rules pertaining to Lifeline-Only ETCs.

The provision in Chapter 69-09-05 of the North Dakota Administrative Code requiring the ETC to describe services in the "carrier's official telephone directory" is not applicable because Assurance has no such directory.

3. Assurance agrees to comply with all statements, processes and procedures set forth in its Application for designation as a Lifeline-Only ETC in the designated coverage area. Assurance agrees that all statements made, and matters set forth in its Application are true and correct to the best of Assurance's knowledge, information, and belief.
4. Assurance will use the federal low-income universal service support it receives only for the provision of services for which the support is intended.
5. Assurance meets all the prerequisites to be designated as a Lifeline-Only ETC throughout the proposed ETC Designated Area in this proceeding.
6. Assurance 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 a Lifeline-Only ETC, including voice grade access, minutes of

use at no additional charge, access to emergency services and toll limitation services.

7. Assurance will provide service on a timely basis to requesting customers within the applicant's proposed designated service area.
8. Assurance will provide service within a reasonable period if the potential customer is within Assurance's proposed designated service area
9. Assurance will not seek Universal Service Fund high-cost support for any telephone exchanges in its designated service area in North Dakota.
10. Assurance 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 eligibility criteria in 47 C.F.R. § 54.409 and the relevant proof documentation specified in 47 C. F. R. § 54.410. Assurance will check the National Lifeline Accountability Database to prevent duplication and determine eligibility.
11. Assurance has taken, and will continue to take, steps 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.
12. Assurance 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
13. Assurance 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.
14. Assurance will offer the services described in its Application.
15. Assurance understands and agrees that if Assurance has not advertised its Lifeline services or signed up any North Dakota customers within 12 months of the effective date of Assurance's designation as a Lifeline-only ETC, the Public Service Commission may revoke Assurance Wireless' Lifeline-only ETC designation and Assurance Wireless may reapply to be designated as a Lifeline-only ETC In North Dakota.

16. Assurance 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 the Form 555 and Form 481 filed the FCC, within 30 days of filing with the FCC.
17. Assurance 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.
18. Assurance agrees to maintain the records to demonstrate that Assurance has complied with the requirements of the Public Service Commission's order(s) and that Assurance will preserve records for three years demonstrating compliance for Public Service Commission inspection at any reasonable time upon reasonable notice.
19. Assurance understands and agrees that, to the extent there are any conflicts or inconsistencies between Assurance's Application and the provisions in this Certification, the Certification provisions control.

Dated this 12th day of April, 2024.

Assurance Wireless USA, L.P.

By: *Robert Stanchina*
Robert Stanchina

Title: Senior Director