

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)
Assist Wireless, LLC)
for Designation as an Eligible) Case No. RA-2011-0384
Telecommunications Carrier in the State of)
Missouri)
)

**APPLICATION OF ASSIST WIRELESS, LLC FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER IN THE STATE OF MISSOURI**

COMES NOW Assist Wireless, LLC (“Assist Wireless” or “the Company”) and makes application to the Missouri Public Service Commission (Commission) for Designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214(e)(1)-(2) of the federal Communications Act of 1934, as amended (the Act)¹, Section 54.201 *et seq.* of the rules of the Federal Communications Commission (“FCC”)², and the rules and regulations of the Commission, including 4 CSR 240-2.060 and 4 CSR 240-3.570. The Company requests ETC designation in the service areas of the Incumbent Local Exchange Carriers listed in **Exhibit B**.

Assist Wireless seeks ETC designation solely to provide Lifeline and Link-Up service to qualifying Missouri customers. It will not seek access to funds from the federal Universal Service Fund (USF) for the purpose of providing service to high-cost areas.³ The Company satisfies all of the statutory and regulatory requirements for designation as an ETC in the requested designated service area. As explained herein, the public interest would be served by granting this petition.

¹ 47 U.S.C. § 214(e)(2).

² 47 C.F.R. § 54.201 *et seq.*

³ Given that Assist Wireless only seeks Lifeline and Link-Up support from the low-income program and does not seek any high-cost support, Assist Wireless seeks a waiver of ETC certification and compliance requirements for the high-cost program.

In support of its Application, Assist Wireless states the following:

I. BACKGROUND

Assist Wireless. Assist Wireless is a Tennessee corporation whose principal offices are located at 1407 Texas Street, Suite 402, Fort Worth, TX 76102. The nature of Assist Wireless' business is the provision of wireless services on a common carrier basis.

The following company contact information is provided to the Commission for complaints and/or billing dispute issues:

Assist Wireless LLC
Byron Young
1407 Texas Street, Suite 202
Fort Worth, Texas 76102
(855) 392-7747

The Company commits to resolve complaints received by the Commission against the Company. The above-identified contact person will work with the Commission staff for complaint resolution.

Pursuant to 4 CSR 240-2.060(1)(C), a Certificate of Good Standing to transact business in Missouri, issued by the Missouri Secretary of State, is attached hereto and incorporated herein by reference as **Exhibit A**.

Exhibit B is a list of Missouri Incumbent Local Exchange Carriers in whose service areas Assist Wireless proposes to provide ETC service.

Exhibit C is an officer's affidavit concerning Assist Wireless' technical, financial and managerial resources and abilities.

Upon designation as an ETC, the Company will provide the supported services throughout the requested designated service area and offer Lifeline and Link-Up service to qualified low-income consumers.

Contact Information. All correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be addressed to:

William D. Steinmeier
William D. Steinmeier, P.C.
P.O. Box 104595
Jefferson City, Missouri (MO) 65110-4595
Telephone: (573) 659-8672
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With a copy to:

Mark Foster
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707 West Tenth Street
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Waivers of Certain PSC Rules. Since Assist Wireless is not seeking high cost support for its wireless service, it requests a waiver of the following rules of the Missouri Public Service Commission in this matter: 4 CSR 240-3.570(2)(A) 1 through 3; and 4 CSR 240-3.570(4). Assist Wireless understands these rule provisions to relate solely to the receipt and expenditure of high-cost funds. As Assist Wireless will not apply for or accept federal high-cost funding, the Company believes that these rules are not applicable to Assist Wireless' ETC Application and, therefore, should be waived. Pursuant to 4 CSR 240-2.060(4), Assist Wireless submits that these circumstances constitute good cause for waiver of these rules.

Compliance with Rules. Assist Wireless commits to comply with all applicable rules of the Missouri Public Service Commission and of the Federal Communications Commission unless waived by this Commission or the FCC.

Designation of Eligible Telecommunications Carriers. Title 47 U.S.C. § 214(e)(2) of the Act provides that a state commission shall upon request designate a common carrier as an eligible telecommunications carrier (ETC) for a service area designated by the state commission. Title 47 U.S.C. § 214(e)(1) provides that an ETC shall be eligible to receive universal service support in accordance with section 254 of the Act and shall, in the service area for which the designation is received, offer the 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 shall advertise the availability of such services and their costs using media of general distribution. The Federal Communications Commission has promulgated a list of the services or functionalities that shall be supported by federal universal service support mechanisms at 47 C.F.R. § 54.101.

The FCC's rules, as well as the rules and orders of the Missouri Public Service Commission, impose additional requirements on a common carrier seeking designation as an ETC. As demonstrated below, Assist Wireless satisfies each of these requirements.

Scope of Assist Wireless Designation Request. Assist Wireless seeks ETC designation for the purpose of receiving available support from the federal universal service fund (USF) for low-income customers only (*i.e.*, Lifeline and Link-Up

support). The Company requests ETC designation in the service areas of the Incumbent Local Exchange Carriers listed in **Exhibit B**.

For the reasons set forth below, designating Assist Wireless as an ETC throughout the requested service areas would serve the public interest, convenience and necessity.⁴

II. ASSIST WIRELESS SATISFIES THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC IN MISSOURI

Assist Wireless satisfies each of the statutory and regulatory prerequisites set forth in the Act, the FCC's rules and 4 CSR 240-3.570:

A. The Company is a Common Carrier

The Company is regulated as a common carrier under 47 C.F.R. § 20.9(a)(10) which provides that mobile satellite service involving the provision of commercial mobile radio service (by licensees or resellers) directly to end users shall be treated as common carriage services. The Company will be providing the required services, in part, as a reseller.

B. Assist Wireless Offers the Services and Functionalities Supported by the Federal Low-Income Universal Service Program [47 C.F.R. § 54.201(d)]

Pursuant to 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(d)(1), the Company shall, throughout the service area for which designation is received, offer the services that are supported by Federal universal service support mechanisms defined in 47 C.F.R. § 54.101(a).

These supported services include:

⁴ Pursuant to FCC precedent, no "cream-skimming" analysis is necessary because Assist Wireless is seeking ETC designation only with respect to low-income support mechanisms. See *Virgin Mobile USA, L.P.*, Order, 24 FCC Rcd 3381, at ¶ 39 n.101 (2009).

Voice Grade Access to the Public Switched Network [47 C.F.R. § 54.101(a)(1)]. “Voice grade access” permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal that there is an incoming call.

Local Usage [47 C.F.R. § 54.101(a)(2); 4 CSR 240-3.570 (2)(A)10]. “Local usage” means an amount of minutes of use of exchange service provided free of charge to end users. The FCC has specified that a local usage plan is acceptable if it is “comparable to the one offered by the incumbent LEC in the service areas for which the applicant seeks designation.”⁵ This comparability analysis must proceed on a case-by-case basis, and take account of value-added capabilities and services incorporated into a plan.⁶

The Company’s current local usage plans (i.e., Lifeline service offerings), summarized in **Exhibit D**, are comparable in value to those offered by ILECs operating in the requested ETC service area. The Company’s plans offer consumers numerous benefits, including larger “local” calling areas, the availability of mobile service, and unlimited local and long-distance calling options. In addition, those plans incorporate value-added features, such as caller ID, call waiting, three-way calling, and voicemail; and domestic text messaging at 0.3 minutes per text.

The Company acknowledges a commitment to provide Lifeline and Link-Up discounts and Missouri USF (MoUSF) discounts pursuant to 4 CSR 240-31, if

⁵ See *Federal-State Joint Board on Universal Service*, Report and Order, 20 FCC Rcd 6371, at ¶ 32 (2005) (“2005 ETC Order”).

⁶ *Id.*

applicable, at rates, terms and conditions comparable to the Lifeline and Link-Up offerings and MoUSF offerings of the ILEC providing service in the ETC service area.

Dual Tone Multi-Frequency Signaling or its Functional Equivalent [47 C.F.R. § 54.101(a)(3); 4 CSR 240-3.570 (3)(C)1.A.]. Dual tone multi-frequency (“DTMF”) signaling is a method of signaling that facilitates the transportation of call set-up and call detail information. The FCC has recognized that, with respect to wireless carriers, it “is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling.”⁷ Assist Wireless will use out-of-band digital signaling and in-band multi-frequency signaling that is the functional equivalent to DTMF signaling.

Single-Party Service or its Functional Equivalent [47 C.F.R. § 54.101(a)(4); 4 CSR 240-3.570 (3)(C)1.B.]. With respect to wireless carriers, “single-party service” affords a user a dedicated message path for the length of a user’s particular transmission. The Company will meet this requirement with respect to each of its service offerings.

Access to Emergency Services [47 C.F.R. § 54.101(a)(5); 4 CSR 240-3.570 (3)(C)1.C.]. “Access to emergency service” includes access to services, such as 911 and enhanced 911 (“E-911”), provided by local governments or other public safety organizations. The Company will provide this required service.

In addition, pursuant to 4 CSR 240-3.570(3)(C)1.D. and F., respectively, the Company shall make available to each end-user subscribing to its supported services within its designated service area emergency telephone number services capable of automatic number identification, automatic location identification and call

⁷ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, at ¶ 71 (1997).

routing facilities to facilitate public safety response; e.g., Enhanced 911 Service, where the local government agency serving the end-user has implemented enhanced 911 systems; and access to telecommunications relay service by dialing 711.

Access to Operator Services [47 C.F.R. § 54.101(a)(6); 4 CSR 240-3.570 (3)(C)1.H.]. “Access to operator services” means access to automatic or live assistance provided to a customer to arrange for the billing or completion, or both, of a telephone call. The Company shall provide this required service.

Access to Interexchange Service [47 C.F.R. § 54.101(a)(7); 4 CSR 240-3.570 (3)(C)1.E.]. With respect to wireless carriers, “access to interexchange service” means access to the functional equivalent of the use of the loop, as well as that portion of the switch that is paid for by the end user, necessary to access an interexchange carrier’s network. The Company shall provide this required service.

Directory Assistance [47 C.F.R. § 54.101(a)(8); 4 CSR 240-3.570 (3)(C)1.G.]. “Access to directory assistance” means access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings. The Company shall provide this required service.

Toll Limitation [47 C.F.R. § 54.101(a)(9); 4 CSR 240-3.570 (3)(C)1.I.]. “Toll limitation” includes the offering of either “toll control” or “toll blocking” to qualifying low-income customers, as a means of limiting or blocking the completion of outgoing toll calls. An ETC is not required to provide either service if it is incapable of providing such service. The Company’s calling plans do not distinguish between local and toll calls at the point of dialing, such that Assist Wireless cannot offer toll limitation without blocking all service to a customer. However, if for any reason the Company changes the

structure of its service plans to distinguish between local and toll calls, Assist Wireless will meet the toll limitation requirement by providing toll blocking.

C. The Company Shall Use Its Own Facilities, Or a Combination of Its Own Facilities and Resale of Another Carrier's Services

Pursuant to 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(d)(1), the Company shall use its own facilities or a combination of its own facilities and resale of another carrier's services to offer the services that are supported by Federal universal service support mechanisms. The Company has entered into a capital lease agreement with a third party which enables the company to utilize a leased switch to provide one or more of the supported services that are supported by Federal universal service support mechanisms, and which will be used in combination with the network architecture being provided from an underlying wireless provider that the Company obtains at resale.

D. Assist Wireless Will Advertise the Availability of and Charges for its Universal Service Qualifying Offerings [47 C.F.R. § 54.201(d)(2); 47 CFR §§ 54.405(b) and 54.411(d); 4 CSR 240-3.570(2)(A) 6 and 7]

Pursuant to 47 U.S.C. § 214(e)(1)(B), 47 C.F.R. § 54.201(d)(2), 47 C.F.R. § 54.405(b), and 4 CSR 240-3.570(2)(A)6., the Company shall advertise the availability of the services that are supported by Federal universal service support mechanisms and the charges for such services using media of general distribution designed to reach those likely to qualify for the service. The Company may advertise, among other means, via newspaper, mail circular, and radio and target residential customers with its advertising efforts. The Company will advertise in accordance with Commission rules. The Company will make a concerted effort to notify municipal, state, and federal governmental agencies whose clientele may likely benefit the most from having the

Company designated as an ETC by the Commission. **Exhibit E** contains sample planned advertising.

E. The Company Will Satisfy its Additional Obligations as an ETC

In addition to those requirements set forth in Section 54.201 of the FCC's rules, Assist Wireless will satisfy other ETC requirements adopted by this Commission and the FCC. In particular:

Commitment to Provide Service Upon Reasonable Request [47 C.F.R. § 54.202(a)(1); 4 CSR 240-3.570(3)(C)3.]. Pursuant to 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d), the Company shall offer the services that are supported by Federal universal service support mechanisms throughout the service area for which designation is received. In addition, the Company commits to provide service throughout its proposed designated service area to all customers making a reasonable request for service. See 47 C.F.R. § 54.202(a)(1)(i). The Company certifies that it will provide service on a timely basis to requesting customers within the Company's service area where the Company's network already passes the potential customer's premises. See 47 C.F.R. § 54.202(a)(1)(i)(A). The Company certifies that it will provide service within a reasonable period of time, if the potential customer is within the Company's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by: 1) modifying or replacing the requesting customer's equipment; 2) deploying a roof-mounted antenna or other equipment; 3) adjusting the nearest cell tower; 4) adjusting network or customer facilities; 5) reselling services from another carrier's facilities to provide service; or 6) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment. See 47 C.F.R. § 54.202(a)(1)(i)(B). Because the Company seeks only low-income support, as opposed

to high-cost funding to support the construction of network facilities, it is not submitting a network improvement plan under 47 C.F.R. § 54.202(a)(1)(ii).⁸

Ability to Remain Functional in an Emergency [47 C.F.R. § 54.202(a)(2); 4 CSR 240-3.570 (2) (A)4.]. Pursuant to 47 C.F.R. § 54.202(a)(2) and 4 CSR 240-3.570(2)(A)4., a carrier seeking ETC designation must demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

Since the Company is providing service to its customers through the use of facilities obtained from other carriers, this arrangement allows the Company to provide to its customers the same ability to remain functional in emergency situations as currently provided by the carriers to their own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, rerouting of traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

Satisfaction of Applicable Consumer Protection and Service Quality Standards [47 C.F.R. § 54.202(a)(3); 4 CSR 240-3.570 (2)(A)8 and 10(B).]. Pursuant to 47 C.F.R. § 54.202(a)(3), a carrier seeking ETC designation must demonstrate that it will satisfy applicable consumer protection and service quality standards. Pursuant to 4 CSR 240-3.570(2)(B), the Company commits to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.

⁸ The FCC has made clear that this requirement applies only to carriers receiving high-cost support. See *2005 ETC Order* at ¶ 23.

Exhibit F contains a copy of the consumer code for wireless service most recently recognized by CTIA to which the Company commits to abide.

Once designated as an ETC, the Company, pursuant to 4 CSR 240-3.570(2)(B), shall file with the Commission any changes to the consumer code for wireless service included with its petition or any subsequent code approved under this section of the rule, within 30 days of the change.

Billing Requirements [4 CSR 240-3.570 (3)(A) and (B)]. Pursuant to 4 CSR 240-3.570(3)(A), the Company shall develop a bill design that can be easily interpreted by its customers and clearly sets forth charges in compliance with state and federal billing requirements.

Pursuant to 4 CSR 240-3.570(3)(B), the Company shall provide customer service contact information online and on billing statements and acknowledges that this requirement also applies to the use of a third party billing agent by the Company.

Consumer Privacy Protection Standards [4 CSR 240-3.570 (2)(A)8] Pursuant to 4 CSR 240-3.570(2)(A)8., the Company will satisfy consumer privacy protection standards as provided in 47 C.F.R. 64 Subpart U and service quality standards as applicable.

Equal Access [47 C.F.R. § 54.202(a)(5); 4 CSR 240-3.570 (2)(A)9.] Pursuant to 47 C.F.R. § 54.202(a)(5), the Company certifies that it may be required to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.

Pursuant to 4 CSR 240-3.570(2)(A)9., the Company acknowledges it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that

service area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996.

Lifeline Certification and Verification [47 C.F.R. § 54.410; 4 CSR 240-3.570 (5)(B)]. **Exhibit G** contains the verification and certification procedure that the Company will implement to comply with 47 C.F.R. § 54.409, 47 C.F.R. § 54.410, and 4 CSR 240-31.050.

5-Year Plan. [47 C.F.R. § 54.202(a)(1)] Pursuant to 47 C.F.R. § 54.202(a)(1)(ii), a carrier seeking ETC designation must submit a five-year plan that describes proposed improvements or upgrades to the Company's network on a wire center-by-wire center basis. Because the Company seeks ETC designation solely for purposes of reimbursement for provision of subsidized Lifeline and Link Up services to eligible customers, submission of a five-year plan is not required at this time.

Regulatory Fees. The Company shall pay all applicable federal, state, and local regulatory fees, including but not limited to universal service and E-911 fees, in a timely manner.

711 Relay Access [4 CSR 240-3.570 (3)(C)1.F.]. The Company will provide customers with access to telecommunications relay services by dialing 711.

Notify Commission of Changes to Contact Information [4 CSR 240-3.570(3)(F)]. The Company shall comply with 4 CSR 240-3.570(3)(F) concerning the procedure for notifying the Commission of a change in Company-designated contacts.

Informational Filing [4 CSR 240-3.570(3)(D)]. Pursuant to 4 CSR 240-3.570(3)(D), within 30 days of receiving ETC status, the Company shall make an informational filing with the Commission consisting of a complete description of all of its

service offerings. The Company will amend its informational filing as service offerings are introduced or modified.

Annual Reporting Requirements. The Company shall comply with all annual reporting requirements for designated ETCs listed in 47 C.F.R. § 54.209, as applicable. In addition, the Company will annually report to the Commission all USF funding received and the amount of subsidization provided to Lifeline and Link-Up customers.

Customer Complaints. The Company shall comply with the provisions of 47 C.F.R. § 240-3.570(3)(E) regarding the manner in which customer complaints shall be recorded and maintained.

Service Deposits. Pursuant to 47 C.F.R. § 54.401(c), the Company acknowledges that as an ETC the Company may not collect a service deposit in order to initiate Lifeline service, if the qualifying low-income consumer voluntarily elects toll limitation service from the Company, where available, and if toll limitation services are unavailable, the Company may charge a service deposit.

Number-Portability Charge. Pursuant to 47 C.F.R. § 54.401(e), the Company acknowledges that consistent with § 52.33(a)(1)(i)(C), the Company may not charge Lifeline customers a monthly number-portability charge.

Missouri Application Requirements [47 C.F.R. 240-2.060(1)(K) and (L)]. The Company has no pending or final judgments or decisions against it from any state or federal agency or court that involve customer rates or service. In addition, Assist Wireless has no annual report or assessment fees that are overdue.

D. Assist Wireless Lifeline and Link-Up Plans and Discounts

The Company commits to provide Lifeline and Link Up discounts consistent with 47 CFR 54.401, 47 C.F.R. § 54.403, and 47 CFR 54.411, as required by 4 CSR 240-3.570(2)(A)7.

Lifeline [47 CFR § 54.401; 4 CSR 240-3.570(2)(A)7]. Pursuant to 47 C.F.R. § 54.403 and 4 CSR 240-3.570(2)(A)7., the Company will provide Lifeline discounts in the following manner, which is consistent with the federal Lifeline plan:

Tier 1: Lesser of \$6.50 or maximum amount of ILEC's subscriber line charge

Tier 2: \$1.75 (federal discount)

Tier 3: \$1.75 (one-half of carrier's contribution)

Link-Up [47 CFR § 54.411; 4 CSR 240-3.570(2)(A)7]. Under 47 C.F.R. § 54.411(a)(1), Link-Up is an assistance program for qualifying low-income consumers that an ETC shall offer as part of the provision of services supported by the federal universal service support mechanism and consists of a reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence. The reduction shall be half of the customary charge or \$30.00, whichever is less. Assist Wireless' activation fee is \$60. The Company will be reducing its activation charge by \$30.00. The customer will also receive a one-time promotional discount of \$30.

III. DESIGNATING ASSIST WIRELESS AS A COMPETITIVE ETC WILL SERVE THE PUBLIC INTEREST

Competition furthers the goals of telecommunications service and provides the consumer with a greater choice of providers and service choices, which will in turn result in market-driven prices and quality. Granting the Company ETC status would

advance principles of customer service by providing increased competition and is therefore in the public interest. In addition, as a wireless provider, the Company can often serve a larger local calling area than a traditional wireline provider and afford the customer the convenience of telephone mobility.

The designation of the Company as an ETC will offer Lifeline-eligible customers a greater choice of providers for accessing telecommunications services not available to such customers today and should likely expand participation of qualifying customers in the Lifeline program.

IV. Conclusion

WHEREFORE, Assist Wireless, LLC respectfully submits that it has met the requirements for eligibility for designation as an Eligible Telecommunications Carrier (ETC) in the State of Missouri. Assist Wireless requests that the Missouri Public Service Commission issue an Order granting this Application and designating Assist Wireless as an ETC for Lifeline and Link-Up services in Missouri.

Respectfully submitted,

/s/ William D. Steinmeier

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COUNSEL FOR ASSIST WIRELESS, LLC

Dated: May 27, 2011

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been served electronically on the Office of Public Counsel at opcservice@ded.mo.gov and on the General Counsel's office at gencounsel@psc.mo.gov this 27th day of May 2011.

/s/ William D. Steinmeier

William D. Steinmeier

VERIFICATION

(To be Late-Filed)

LIST OF EXHIBITS

Exhibit A	Missouri Secretary of State Certificate of Good Standing
Exhibit B	List of Missouri Incumbent Local Exchange Carriers
Exhibit C	Officer's Affidavit
Exhibit D	Lifeline and Link-Up Service Offerings
Exhibit E	Sample Advertisement (<i>Filed as separate pdf file</i>)
Exhibit F	CTIA Consumer Code for Wireless Service
Exhibit G	Customer Verification and Certification Procedures

