

State of Florida



# Public Service Commission

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**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** June 6, 2024

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of Industry Development and Market Analysis (Mallow, Day, Deas, <sup>CH</sup>Fogleman)  
Office of the General Counsel (Farooqi, Harper) <sup>AEH</sup>

**RE:** Docket No. 20240065-TP – Petition for designation as eligible telecommunications carrier in the State of Florida, by Q LINK WIRELESS.

**AGENDA:** 06/18/24 – Regular Agenda – Interested Persons May Participate <sup>Proposed Agency Action 6/6/24</sup>

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Clark

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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## Case Background

On April 16, 2024, Q LINK WIRELESS LLC (Q LINK or Company) filed a petition with the Florida Public Service Commission (FPSC or Commission) seeking designation as an eligible telecommunications carrier (ETC) for the sole purpose to provide Lifeline service to qualifying consumers throughout Florida. Q LINK is a provider of commercial mobile radio service (CMRS) and offers prepaid wireless telecommunications services to consumers as a wireless reseller. Specifically, Q LINK uses the network infrastructure and wireless transmission facilities of T-Mobile USA, Inc. (T-Mobile) to allow the Company to operate as a Mobile Virtual Network Operator. Q LINK is currently designated as an ETC providing Lifeline service in 36 other states, the U.S. Virgin Islands, and Puerto Rico.

As a CMRS provider, Q LINK is regulated as a common carrier pursuant to 47 U.S.C. § 153(11).<sup>1</sup> Q LINK is a Limited Liability Company that was organized in the State of Delaware on August 25, 2011. Q LINK is wholly-owned by its parent, Quadrant Holdings Group LLC (QUADRANT), and received all required approvals from the FCC and state commissions. QUADRANT also owns 100 percent of Centurion Logics, LLC and Hello Mobile Telecom, LLC (HELLO).

Q LINK asserts that it meets all applicable federal requirements for designation as a Lifeline only ETC in Florida pursuant to 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201. Q LINK acknowledges and asserts that, if approved, it will comply with Sections 364.10 and 364.105, Florida Statutes (F.S.) and Rule 25-4.0665, Florida Administrative Code (F.A.C.), which govern Lifeline service and provide for a transitional discount for customers who no longer qualify for Lifeline. In addition to the federal rules and statutes discussed above, the Commission has jurisdiction in this matter pursuant to Section 364.10, F.S.

Section 214(e)(2) of the Telecommunications Act of 1996 (the Act) provides state public utility commissions with “primary responsibility” for the designation of ETCs. The Commission initially exercised this authority to designate both wireline and wireless carriers as ETCs. In 2011, the Florida Legislature removed the FPSC authority to designate wireless ETC providers.<sup>2</sup> However, the Florida Legislature amended Section 364.10, F.S., in 2024 to specifically grant the Commission jurisdiction to address wireless ETC petitions for Lifeline purposes only.<sup>3</sup>

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<sup>1</sup> 47 U.S.C. § 153(11) (defining a common carrier as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio . . . .”); 47 U.S.C. § 332(c)(1)(A) (treating commercial mobile service providers as common carriers).

<sup>2</sup> House Bill 1231 (2011), effective July 1, 2011.

<sup>3</sup> Senate Bill 478 (2024), effective April 15, 2024.

## Discussion of Issues

**Issue 1:** Should Q LINK be granted an ETC designation to provide Lifeline service throughout the State of Florida?

**Recommendation:** Yes. Q LINK should be granted an ETC designation to provide Lifeline service throughout the State of Florida. Staff also recommends that if there is a future change of Company ownership, the new owners should be required to file a petition with the Commission to demonstrate that it is in the public interest to maintain the Company's ETC designation. (Mallow, Day, Deas, Fogleman)

**Staff Analysis:** ETC designation is necessary for telecommunications companies to participate in the federal Lifeline program.<sup>4</sup> Section 364.10, F.S., allows the Commission to approve wireless Lifeline ETC petitions for requesting carriers. Specifically, paragraphs 364.10(1)(a) and (3)(a) F.S., provide the Commission with the authority to designate a commercial mobile radio service provider as an ETC for the limited purpose of providing Lifeline service.

Federal rules outline the requirements for ETC designation.<sup>5</sup> To obtain ETC designation to provide Lifeline services, federal rules require that carriers:

- 1) Be a common carrier;
- 2) Offer the services that are supported by the federal universal support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services;
- 3) Advertise the availability of its Lifeline service through a media of general distribution;
- 4) Provide voice grade access to the public switch network or its functional equivalent;
- 5) Offer minutes of use for local service at no additional charge to end users;
- 6) Provide access to the emergency services available by local government or other public safety organizations;
- 7) Provide Broadband Internet Access Service;<sup>6</sup>

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<sup>4</sup> 47 C.F.R. § 54.201(a).

<sup>5</sup> 47 U.S.C. § 214(e)(1), 47 C.F.R. § 54.101, 47 C.F.R. § 54.201, and 47 C.F.R. § 54.401; While Section 47 C.F.R. § 54.101(a) also includes requirements addressing toll limitation services to qualifying low-income consumers, the FCC in its 2012 Lifeline and Link Up Reform Order (FCC 12-11) stated that: "ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls."

<sup>6</sup> Broadband Internet Access Service (BIAS) is defined as a mass-market retail service that provides the capability to transmit and receive data, but excluding dial-up service.

- 8) Demonstrate financial and technical capability to provide Lifeline service; and
- 9) Not charge Lifeline customers a monthly number-portability charge.

In addition, Florida law requires ETCs to:

- 1) Offer a discounted transitional basic telecommunications service;<sup>7</sup> and
- 2) Participate in the Lifeline Promotion Process.<sup>8</sup>

### **Forbearance of Facilities Requirements**

Q LINK plans to offer all of the supported services enumerated under Section 254(c) of the Act through its wireless resale agreement with T-Mobile. Therefore, it sought forbearance of the facilities requirement from the FCC. On August 8, 2012, the FCC approved Q LINK's compliance plan as a condition of obtaining forbearance from the facilities requirement for the provision of Lifeline service. As part of its compliance plan Q LINK committed to do the following:<sup>9</sup>

- 1) Provide the supported services throughout the carrier's designated areas;
- 2) Remain functional in emergency situations;
- 3) Comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service;
- 4) Demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with federal rules; and
- 5) Describe the terms and conditions of the broadband Internet access service plans offered to Lifeline subscribers.

Because Q LINK will offer the supported services and is compliant with the FCC requirements pursuant to 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201, as well as the Florida specific requirements, Q LINK is eligible for designation as a Lifeline only ETC in Florida.

### **Financial, Managerial, and Technical Capabilities**

As noted in its petition, Q LINK has offered service since 2011 and has not filed for any form of bankruptcy relief. The Company has operated as an ETC in 36 states, the U.S. Virgin Islands,

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<sup>7</sup> Section 364.105, F.S states that each ETC shall offer a residential basic local telecommunications service at 70 percent of the residential local telecommunications service rate for any Lifeline subscriber who no longer qualifies for Lifeline for a period of 1 year after the date the subscriber ceases to qualify for Lifeline .

<sup>8</sup> Rule 25-4.0665(3), F.A.C. The Lifeline Promotion Process is an electronic system developed in collaboration with the Florida Department of Children and Families, ETCs and the FPSC. This system helps assist ETCs and the FPSC in providing information on how to apply for Lifeline assistance to eligible customers.

<sup>9</sup> 47 C.F.R. § 54.202(a)

and Puerto Rico and has not been subject to ETC revocation proceedings in any state. Q LINK is currently under investigation by the FCC in three cases.

- 1) The FCC has proposed a \$62 million penalty against Q LINK for its apparent violation of Emergency Broadband Benefit Program (EBB) rules by seeking and receiving reimbursement for connected devices in excess of the market value.<sup>10</sup>
- 2) The FCC issued a \$20 million Notice of Apparent Liability for Forfeiture against Q LINK and HELLO for Consumer Proprietary Network Information (CPNI) violations.<sup>11</sup>
- 3) The FCC proposes a \$100,000 fine against QUADRANT, Q LINK and HELLO for the Companies' failure to respond to a Commission order to provide information and documents concerning an alleged security flaw in the Q Link mobile application (related to CPNI violation).<sup>12</sup>

Staff requested additional information regarding these investigations and Q LINK provided explanations, as summarized below:<sup>13</sup>

- 1) This investigation reflects a difference of opinion between Q LINK and the FCC regarding a good-faith estimate of the market value of connected devices the Company provided to qualified low-income consumers during the Covid-19 pandemic. Because of Covid-19 related supply-chain interruptions, Q LINK contends it was forced to have devices custom-made to meet the needs of customers as sufficient off-the-shelf devices were not available. The dispute between the FCC and the Company is in regards to the methodology to estimate market value.
- 2) The FCC initiated this inquiry based on allegations that Q LINK customer information was available on its phones. Specifically, the website *Ars Technica* claimed Q LINK's system allowed customers to access their accounts through the Internet. Q LINK had investigated the allegations prior to the FCC's inquiry and was unable to duplicate the asserted flaws. The FCC's investigation does not assert that any third-party breach actually occurred, but faults Q Link for account-authentication methods asserted to be insufficiently protective under the FCC's regulations. Q LINK has updated its practices and conforms with the FCC's requirements.
- 3) This investigation is the result of a dispute regarding the length of time Q LINK took to respond to the inquiry noted above. While responding the FCC's inquiry after the initial due date, Q LINK contends that the FCC's questions were too numerous for the time period provided for response.

In each of the investigations detailed above, the Company has provided a reasonable explanation as to the nature of the FCC's investigation and the Company's response. The Company has disputed the FCC's assertion that the market value of its tablets were unreasonable and has

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<sup>10</sup> FCC, Notice of Apparent Liability for Forfeiture and Order, FCC 23-2, Released January 17, 2023.

<sup>11</sup> FCC, Notice of Apparent Liability for Forfeiture, FCC 23-59, Released July 28, 2023.

<sup>12</sup> FCC, Notice of Apparent Liability for Forfeiture, DA 22-825, Released August 5, 2022.

<sup>13</sup> Document No. 04314-2024

provided evidence to that effect. In the CPNI case, the Company has changed its procedures to align with FCC requirements. After careful consideration, staff believes that the investigations should not preclude approval of Q LINK's petition.

The company has over 10 years of technical and managerial experience, and it does not rely exclusively on Lifeline reimbursements for its operating revenues. As Q LINK will be providing resold wireless service, it will also rely upon the managerial and technical expertise of its underlying carriers.

### **Public Interest**

State commissions are required to find that ETC designation is in the public interest.<sup>14</sup> Q LINK asserts granting its ETC designation will bring Lifeline eligible consumers more choice in providers without creating an additional burden on the federal high-cost programs. In Florida, consumers are currently limited to three wireless Lifeline providers. These three companies represent 98 percent of the Lifeline market in Florida.<sup>15</sup> However, the FPSC's estimated Lifeline participation rate for the last two years has hovered around 18 percent.<sup>16</sup> The increase in carriers servicing this market may increase participation through additional marketing and would serve the public interest.

### **Conclusion**

Staff has reviewed Q LINK's petition for ETC designation in Florida. Q LINK meets all the requirements for designation as an ETC. Additionally, the Company has demonstrated sufficient financial, managerial, and technical capabilities. Therefore, staff recommends Q LINK should be granted an ETC designation throughout the State of Florida as identified in Attachment A of this recommendation. Staff further recommends that if there is a future change of Company ownership, the new owners should be required to file a petition with the Commission to demonstrate that it is in the public interest to maintain the Company's ETC designation.

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<sup>14</sup> 47 U.S.C. § 214(e)(2).

<sup>15</sup> 2023 Florida Lifeline Assistance Report, December 2023, Appendix C, p 24.

<sup>16</sup> Ibid, p 13.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, this docket should be closed upon the issuance of a consummating order. (Farooqi)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.

