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June 12, 2024

VIA ELECTRONIC DELIVERY

Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Q LINK WIRELESS LLC, Docket No. 20240065
Petition for ETC Designation – Supplemental Information

To Whom It May Concern,

Q LINK WIRELESS LLC (“Q LINK” or the “Company”) hereby submits the enclosed Supplemental Information in support of its pending Petition for Designation as an Eligible Telecommunications Carrier (“ETC”). This Supplemental Information includes and expands upon the information filed on May 28, 2024.

If you have any questions or if I may provide you with additional information, please do not hesitate to contact our office. Thank you for your assistance.

Respectfully submitted,

s/ Lance J.M. Steinhart

Lance J.M. Steinhart
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Attorneys for Q LINK WIRELESS LLC

Enclosure(s)

1. *Q LINK NAL related to the EBB/ACP*

The Federal Communications Commission (FCC) released a Notice of Apparent Liability (NAL) to Q Link Wireless LLC (“Q Link or Company”) on January 17, 2023 (FCC 23-2). The NAL reflects a difference of opinion between the Company 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. The FCC’s Emergency Broadband Benefit (EBB) Program, later succeeded by the Affordable Connectivity Program (ACP), encouraged providers like Q Link to provide connected devices to consumers during the Covid-19 pandemic and promised to reimburse providers for the market value of those devices. The EBB program rules required EBB providers to submit reimbursement claims based on the “market value” of the device. As the NAL concedes (at ¶ 14) this is a good faith assessment. Q Link was forced to have devices custom-made during the pandemic, because supply-chain disruptions made off-the-shelf devices unavailable at the volume that consumers in the EBB and ACP programs demanded. Q Link’s good-faith estimate of the value of those devices was \$110. FCC staff disagreed after the fact, estimating the value at \$60 per device. The NAL asserted that Q Link should have known that its tablets did not have a market value of \$110, but had a value of at most \$60, citing a list of comparables compiled by FCC staff. There are substantial disputes between FCC staff and the Company as to the parameters of the devices and the methodology to estimate market value.

In its response to the NAL, Q Link demonstrated the legitimate basis for its good-faith estimate, including multiple expert opinions supporting the soundness of that estimate. Q Link through professional cost, economic, and industry experts disputed the FCC staff’s list of comparable devices and analysis, pointing out that, among other things, they included devices available only in limited quantities, including one from a pawn shop. It also pointed out that these devices were being provided during a global supply shortage, which would increase their market value. To support this, Q Link asked two economic experts to analyze the FCC staff’s methodology and to conduct their own econometric analysis. Dr. Gregory Rosston, a former Deputy Chief Economist of the FCC, conducted a hedonic regression analysis and concluded that the lowest capacity tablet (1 GB RAM/16 GB storage) had a point estimate value of \$106. The highest capacity model (2 GB RAM/48 GB storage) had a point estimate value of \$117. Dr. Jeffrey Prince, a former FCC Chief Economist, conducted both a “nearest neighbor matching”

analysis and a price regression analysis. He concluded that the tablet with 1 GB of RAM and 48 GB of storage had a minimum value of \$103, while the tablet with 2 GB and 48 GB of storage of RAM had a market value of at least \$111. These reports clearly showed that Q Link had a good faith basis for its estimated market value of \$110 and demonstrate that Q Link's estimated market value of its tablets was within a good faith range—the standard for the estimated market value of the devices. Q Link is confident that its good faith estimated valuations would be upheld by an independent fact-finder.

The NAL, which is an administrative complaint, remains pending. No final adjudication on the merits has occurred. Moreover, even if the FCC issues a final forfeiture order, Q Link would be entitled to a de novo trial on the merits in federal court, at which Q Link and its experts are confident Q Link will prevail.

2. *NAL related to CPNI*

The FCC released an NAL on July 28, 2023 (FCC 23-59) against Q Link and its sister company, Hello Mobile Telecom LLC (“Hello Mobile”) (collectively, “Q Link”). The FCC initiated the related inquiry based on allegations that Q Link customer information was available on its phones. The FCC's inquiry arose from a matter reported on the *Ars Technica* website, claiming weaknesses in Q Link's system for allowing 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. Q Link did not find evidence of a breach of customer CPNI, and neither did the FCC during its investigation. There has been no unauthorized release of consumer data, and thus, NO consumer harm. The NAL does not assert that any third-party breach actually occurred but instead faults Q Link for account-authentication methods asserted to be insufficiently protective under the FCC's prophylactic regulations. The Company has responded to the NAL by describing the relevant facts and law, and explaining why the proposed penalty is inappropriate. Q Link, however, in abundance of caution updated its then-existing practices and Q Link has since further modified those practices to conform with the FCC's more stringent prophylactic requirements. Furthermore, notwithstanding the password requirements, even prior to the allegation and subsequent FCC inquiry, Q Link had taken additional steps to safeguard its

consumers' CPNI. For example, called party telephone numbers were never displayed in full. The data displayed would not have been meaningful other than to the account holder and would not have been readily reverse-engineered. In light of all this, Q Link believes that the proposed forfeiture is excessive in light of the lack of an actual breach and the data privacy safeguards Q Link did have in place.

The NAL, which is an administrative complaint, remains pending. No final adjudication on the merits has occurred, and no penalty has been imposed. Moreover, even if the FCC issues a final forfeiture order, Q Link would be entitled to a de novo trial on the merits in federal court, at which Q Link and its experts are confident Q Link would prevail.

3. *NAL for Non-Response*

The FCC released an NAL on August 5, 2022 (DA 22-825) against Q Link, Hello Mobile, and Quadrant Holdings LLC ("Quadrant," Q Link's parent company) proposing a \$100,000 fine 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 app.

This resulted from a dispute with respect to the limited time to respond to the FCC's information requests related to the alleged data breach that was eventually the subject of the CPNI NAL (which as discussed above was not based on a finding of a breach, but on safeguards that did not conform to prophylactic rules).

The FCC's NAL does not provide a complete description of Q Link's responses to the FCC's inquiries. Q Link cooperated extensively with the FCC's inquiries, including reporting the Ars Technica article out of an abundance of caution before Q Link could confirm any breach (which it was never able to confirm). It bears noting that the first LOI was sent on December 3, 2021. A large part of the response period fell over the holidays, as the response was initially due on January 2, 2022. Q Link requested an extension so that it could have time to respond in light of the holiday timing. In return for an agreed upon extension of time to respond, Q Link agreed to toll the application of the statute of limitation for six months, until June 20, 2022. Its initial response provided answers to 21 of 38 requests for information, including substantively describing the underlying article that alleged a breach; the steps the company had taken to investigate the

article, including attempting to reproduce the behavior cited in the article, which the company was unable to do; the steps the company had taken to assure that there would not be a continuing vulnerability to a breach, if one had occurred; the app that was allegedly involved, and its function, and the basis for the report it filed out of an abundance of caution through the FCC's Data Breach Reporting Tool. At the time, Q Link stated it would provide the remaining response and responses to all document requests in a supplemental response. Due to some difficulties in conducting the electronic document searches, and the time-consuming nature of such searches, Q Link and the FCC subsequently agreed to a deadline of March 31 2022 to complete the response to the initial LOI, subject to Q Link agreeing to extend the tolling agreement to September 20, 2022, which it did. This multistage production pursuant to agreements with the FCC staff is common, particularly when documents are requested that necessitate electronic searches. Q Link then provided the remainder of its responses to the initial LOI, including documents, on March 31, 2022.

Q Link then did not hear anything from the FCC staff, or get any indication that there were further questions, until FCC staff on June 10, 2022 emailed Q Link's counsel to ask if Q Link would accept service of a supplemental LOI by email. There was no indication prior to that time that the staff had not found Q Link's initial responses satisfactory or that they had additional follow-up questions. Q Link agreed to accept email service. The questions in the June supplemental LOI were largely in the nature of follow-up questions, asking more specific questions or seeking additional specific detail based on Q Link's initial responses. Follow-up questions are common, whether promulgated through a supplemental LOI or through other means.

The supplemental LOI, consisting of 222 questions (including subparts), was issued on Friday, June 10, 2022 with a 30-day deadline for response. The following Monday, June 13, 2022, Q Link's counsel reached out to the FCC staff to request a call to discuss the supplemental LOI and how to proceed. That call did not occur until June 16, 2022, at which time Q Link proposed deferring responses while discussing settlement options first. Q Link told the FCC staff at the time that it would not immediately begin working on its response while the FCC staff considered Q Link's suggestion. FCC staff told Q Link's counsel they understood and would respond expeditiously, therefore Q Link believed the FCC staff would respond to its request quickly.

However, FCC staff did not respond to Q Link's suggestion until July 5, just five days before responses would have been due. FCC Staff denied Q Link's request to commence settlement discussions while pausing responses unless Q Link would agree to an additional

extended tolling agreement (which had already been extended to September 20, 2022) until sometime in 2023. At that point, Q Link and FCC staff were unable to negotiate a further extension of time to respond notwithstanding that the response time had been consumed waiting for FCC staff to respond to Q Link's suggestion to pursue settlement discussions first. Q Link declined to extend the tolling agreement and told the FCC staff that it would not be able to respond by the July 11 deadline. On July 15, 2022, Q Link reaffirmed its intent to respond to the supplemental LOI. It then worked assiduously to prepare its response, and provided its responses on August 8, 2022, three days (and only one business day) after the FCC issued the NAL on August 5 (which Q Link could not have done if it had not been working on the response). In light of its good faith cooperation and given the delay in response to the Supplemental LOI was as result of the delay from waiting for the FCC's response to a reasonable sequencing request, Q Link believes both the proposed fine and its amount are unwarranted.

The NAL, which is an administrative complaint, remains pending. No final adjudication on the merits has occurred, and no penalty has been imposed. Moreover, even if the FCC issues a final forfeiture order, Q Link would be entitled to a de novo trial on the merits in federal court on all issues, including the appropriateness and amount of any fine.