

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: August 31, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (Williams) *CW AF*
Office of the General Counsel (Lherisson) *Bx 10/20/16*

RE: Docket No. 160150-TX – Petition for designation as eligible telecommunications carrier (ETC) by Phone Club Corporation.

AGENDA: 09/13/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Phone Club Corporation (Phone Club) is a Florida corporation organized on May 30, 2002, with its current headquarters in Palm Coast, Florida. The company was granted certification by the Florida Public Service Commission (FPSC or Commission) to operate as a Competitive Local Exchange Company (CLEC) in Florida in Docket No. 020536-TX, by Order No. PSC-02-1086-PAA-TX.

On May 17, 2016, Phone Club petitioned the FPSC for landline eligible telecommunications carrier (ETC) designation in the State of Florida. In its petition, Phone Club requested that it be granted ETC status in all of the non-rural BellSouth/AT&T (AT&T) service areas in the State of Florida for purposes of receiving federal universal service support. Phone Club also asserts that it is only seeking low-income support, and will not be requesting high-cost support from the federal Universal Service Fund (USF).

Phone Club provides local exchange service using resale obtained through a Resale Agreement with AT&T. Phone Club signed an applicant certification attesting that it will follow all Florida Statutes (F.S.), Florida Administrative Code (F.A.C.) Rules, FPSC Orders, Federal Communications Commission (FCC) Rules, FCC Orders, and regulations contained in the Telecommunications Act of 1996 (the Act) regarding Universal Service, ETCs, and Lifeline. (Attachment A)

In accordance with 47 C.F.R. § 54.201(d)(1), a company must 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 to obtain ETC designation and receive Lifeline reimbursement through the USF. However, non-ETC pure resellers were eligible to receive Lifeline reimbursement as a flow-through from its wholesale service provider.

In the 2015 Lifeline Second Further Notice of Proposed Rulemaking and Order, the FCC amended the Lifeline rules to eliminate Lifeline reimbursement for non-ETC resellers provisioning service through Resale Agreements.¹ Subsequently, effective August 15, 2016, non-ETC resellers, such as Phone Club, became ineligible to receive discounts for Lifeline service from its underlying resale carrier. Absent an approved Lifeline Compliance Plan by the FCC and state ETC designation, these non-ETC reseller companies would no longer provide Lifeline service with support. Staff informed Phone Club of this requirement, and communicated that Phone Club would need to submit an approved FCC Compliance Plan with the FPSC before staff could proceed with its analysis of Phone Club's ETC petition.

On July 26, 2016, Phone Club filed its proposed wireline Compliance Plan with the FCC to obtain forbearance from the facilities requirement of the Act, for the provision of Lifeline service.² The FCC approved Phone Club's proposed Lifeline Compliance Plan on August 10, 2016.³

As of August 18, 2016, Phone Club asserts that it serves 150 residential customers in Florida. The Commission has jurisdiction pursuant to Section 364.10(2), F.S., to rule on a petition by a CLEC seeking designation as an ETC pursuant to 47 C.F.R. § 54.201.

¹ In the Matter of Lifeline and Link-Up Reform and Modernization – WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support – WC Docket No. 09-197, and Connect America Fund – WC Docket No. 10-90, Order FCC 15-71, Adopted: June 18, 2015, Released: June 22, 2015.

² Phone Club Compliance Plan - <https://www.fcc.gov/ecfs/filing/10725243429438/document/1072524342943875c5>.

³ FCC Public Notice, WC Docket No. 09-197 and WC Docket No. 11-42, DA 16-905, Released August 10, 2016.

Discussion of Issues

Issue 1: Should Phone Club be granted landline ETC designation in the State of Florida?

Recommendation: Yes. Staff recommends that Phone Club be granted landline ETC designation status in all non-rural AT&T wire centers listed in Attachment B. If there is a future change of company ownership, the new owners should be required to file a petition with the FPSC and make a showing of public interest to maintain the company's ETC designation. (Williams)

Staff Analysis: Pursuant to Federal Statute, state commissions have the primary responsibility to designate providers as ETCs.⁴ Designation as an ETC is required in order for a provider to be eligible to receive monies from the USF. Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e) of this title shall be eligible to receive specific federal universal service support."⁵ According to Section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal Universal Service mechanisms throughout its designated service areas. Further, 47 C.F.R. § 54.405(b) specifies that ETCs must publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

ETC Certification Requirements

A state commission's responsibilities related to an ETC designation is provided in 47 C.F.R. § 54.201(c), where:

Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

To qualify as an ETC for voice telephony services, a carrier must provide four services identified in 47 C.F.R. § 54.101(a)(1). The services are:

- 1) Voice grade access to the public switched network: Voice grade access is defined as a functionality that enables a user of telecommunications services 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 indicating there is an incoming call.

⁴ 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.201(b).

⁵ 47 U.S.C. § 254(e).

- 2) Local Usage: Local usage indicates the amount of minutes of use of exchange service, provided free of additional charge to end users.
- 3) Access to emergency services: Access to emergency services includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations.
- 4) Toll limitation for qualifying low-income consumers: Toll limitation or blocking restricts all direct-dial toll access.

Also, 47 C.F.R. § 54.405(b) specifies that ETCs must publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

Additional ETC Certification Requirements

In addition to requiring the above services, the FCC, on March 17, 2005, issued a Report and Order that established additional criteria that all ETC applicants must satisfy in order to be granted ETC status by the FCC.⁶ In this Order, the FCC determined that an ETC applicant must also demonstrate:

- 1) Commitment and ability to provide the supported services throughout the designated area
- 2) Ability to remain functional in emergency situations
- 3) Ability to satisfy consumer protection and service quality standards
- 4) Provision of local usage comparable to that offered by the incumbent local exchange companies (ILEC)

The FCC approved these items in Phone Club's Compliance Plan.

Public Interest Determinations

Pursuant to Section 214 of the Act, the FCC and state commissions must determine that an ETC designation is consistent with the public interest, convenience and necessity for rural areas. They also must consider whether an ETC designation serves the public interest consistent with Section 254 of the Act. Congress did not establish specific criteria to be applied under the public interest tests in Sections 214 or 254. The public interest benefits of a particular ETC designation must be analyzed in a manner that is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas.⁷ The FPSC has determined that before designating a carrier as an ETC, the FPSC should make an affirmative determination that such designation is in

⁶ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order FCC 05-46, Adopted: February 25, 2005, Released: March 17, 2005.

⁷ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order FCC 05-46 (¶40), Adopted: February 25, 2005, Released: March 17, 2005.

the public interest, regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier.⁸

Beyond the principles detailed in the Act, the FCC and state commissions have used additional factors to analyze whether the designation of an ETC is in the public interest. A rigorous ETC designation process ensures that only fully qualified applicants receive designation as ETCs and that all ETC designees are prepared to serve all customers within the designated service area.

Staff recommends that if there is a future change of company ownership, the new owners should be required to file a petition with the FPSC and make a showing of public interest to maintain the company's ETC designation. This will ensure that only carriers that are financially viable, likely to remain in the market, willing and able to provide the supported services throughout the designated service area, and able to provide consumers an evolving level of universal service are designated as ETCs.

Additional ETC Requirements

Transitional Lifeline

In accordance with Section 364.105, F.S., Transitional Lifeline requires that ETCs offer discounted 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. A Lifeline subscriber who requests such service receives the discounted price for a period of one year after the date the subscriber ceases to be qualified for Lifeline.

Lifeline Advertising

Phone Club asserts that it will advertise the availability of Lifeline in newspapers, TV, and direct mail as required by 47 U.S.C. § 214(e)(1)(B). Phone Club also asserts that it will provide information about Lifeline availability through community partnerships and work with social service groups that interface with Lifeline-eligible customers. In response to staff's data request, Phone Club asserted that it currently advertises its Lifeline service in small community and church newspapers, and through direct mail. Phone Club also provided an example of a Lifeline advertisement which included eligibility requirements.

Facilities Requirement

In accordance with 47 C.F.R. § 54.201(d)(1), a company must 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. Phone Club plans to offer all of the supported services enumerated under Section 254(c) of the Act through its resale agreement with AT&T. On August 10, 2016, the FCC approved Phone Club's wireline Compliance Plan as a condition of obtaining forbearance from the facilities requirement for the provision of Lifeline service.

⁸ See Docket No. 090245-TP, In re: Petition for limited designation as eligible telecommunications carrier (ETC) by Virgin Mobile USA, L.P., Order No. PSC-10-0323-PAA-TP, issued May 19, 2010, p. 8; See Docket No. 090337TX, In re: Petition for designation as eligible telecommunications carrier (ETC) by Easy Telephone, Inc., Order No. PSC-10-0125-PAA-TX, issued March 2, 2010, p. 4; See Docket No. 080169-TX, In re: Application for designation as eligible telecommunications carrier (ETC) by Express Phone Service, Inc., Order No. PSC-08-0836-PAA-TX, issued December 24, 2008, p. 4.

Phone Club's Petition

Phone Club is requesting that it be granted landline ETC status throughout the non-rural wire centers of AT&T (Attachment B) for the purpose of receiving federal universal service support. Phone Club maintains that it is only seeking low-income support, and it is not requesting high-cost support from the USF. Phone Club's purpose in requesting ETC status in Florida is to provide Lifeline services over landline access lines. Phone Club has acknowledged the requirements of the Florida Lifeline program, and has agreed to adhere to the program which provides qualified customers a \$9.25 credit.

Staff reviewed Phone Club's payment history of regulatory assessment fees, consumer complaint incidents and the timely resolution of those complaints, financial statements, and Phone Club's status with the Florida Department of State Division of Corporations, among other sources. Phone Club appears to be in good standing with the Commission.

Conclusion

Based on staff's review, staff believes that Phone Club's petition for landline ETC designation is in the public interest and should be approved. If Phone Club should decide in the future to seek High Cost universal service funds, ETC status in rural areas, or ETC designation as a wireless or broadband ETC, Phone Club should be required to file a petition with the appropriate agency and make a showing that it would be in the public interest to grant such a request.

Therefore, staff recommends that Phone Club be granted landline ETC designation status in all non-rural AT&T wire centers listed in Attachment B. If there is a future change of company ownership, the new owners should be required to file a petition with the FPSC and make a showing of public interest to maintain the company's ETC designation.

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 Order, a Consummating Order should be issued and the docket closed upon issuance of a Consummating Order. (Lherisson)

Staff Analysis: If no person whose substantial interests are affected files a protest to the Commission's Proposed Agency Action within 21 days of the issuance of the Commission Order, this docket should be closed upon issuance of a Consummating Order.

APPLICANT CERTIFICATION

State of FLORIDA
County of FLAGLER

My name is PRISCILA WOLFF, I am employed by PHONE CLUB CORPORATION, located at 4262 OLD A1A PALM COAST - FL as its PRESIDENT. I am an officer of the Company and am authorized to provide the following certifications on behalf of the Company. This certification is being given to support the wireline Eligible Telecommunications Carrier petition filed by my Company with the Florida Public Service Commission (PSC).

Company hereby certifies the following:

1. Company will follow all Florida Statutes, Florida Administrative Rules, and Florida PSC Orders relating to Universal Service, Eligible Telecommunications Carriers (ETC), and the Florida Lifeline Program.
2. Company will follow all FCC rules, FCC Orders, and regulations contained in the Telecommunications Act of 1996 regarding federal Universal Service Program.
3. Company agrees that the Florida PSC may revoke a carrier's ETC designation for good cause after notice and opportunity for hearing, for violations of any applicable Florida Statutes, Florida Administrative Rules, Florida PSC Orders, failure to fulfill requirements of Sections 214 or 254 of the Telecommunications Act of 1996, or if the PSC determines that it is no longer in the public interest for the company to retain ETC designation.
4. Company understands that if its petition for ETC designation is found to be in the public interest and approved by the PSC, it is based upon the information provided to the PSC in its petition. If there is a future change of company ownership, the company understands that the new owners must file a petition with the PSC prior to offering or getting USF or Lifeline, prior to the change of ownership and also make a showing of public interest to maintain the ETC designation.
5. Company understands that it may only receive reimbursement from the Universal Service Administrative Company (USAC) for active customer access lines which are provided using its own facilities or a combination of its own facilities and access lines obtained as UNEs from another carrier.
6. Company understands that the PSC shall have access to all books of account, records and property of all eligible telecommunications carriers. Company agrees to maintain records to document compliance with all federal and state requirements governing the Lifeline program for as long as the consumer receives Lifeline service plus five years.

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7. Company understands that Lifeline certification forms must be signed by applicants confirming that they participate in a qualifying Lifeline-eligible program prior to that customer being enrolled in the Florida Lifeline program. If a Lifeline applicant uses income-based eligibility, the company will require documents showing proof of income before customer eligibility is granted.
8. Company agrees that it will not file a request for any low-income reimbursement at USAC without having customer-signed Lifeline certification applications on file at its office supporting amounts requested on USAC's Form 497.
9. Company agrees it will submit to the PSC a copy of Form 497s filed with USAC, and will make available supporting signed customer Lifeline certifications upon request to:

Florida Public Service Commission
Office of Telecommunications
2540 Shumard Oak Drive
Tallahassee, Florida 32399-0850
10. Company agrees that it will file a copy of its annual reporting requirements for High-Cost support recipients pursuant to 47 C.F.R. 54.313 with the PSC.

I am aware that pursuant to Section 837.06, F.S., whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree.

Priscilla Wolff:
Signature
PRISCILLA WOLFF
Printed Name

08/18/16
Date

Business Address:
4262 OLD A1A
PALM COAST - FL
32137

AT&T Areas

| | | | | | |
|-------------|--------------|--------------|--------------|--------------|-------------|
| FMTNALMTRSO | FLBHFLMARSO | JCVLFLCLO5T | MIAMFLNSDSO | PAHKFLMARSO | WPBHFLANDSO |
| ARCHFLMARSO | FRBHFLFPDSO | JCVLFLCLDSO | MIAMFLOLDSO | PCBHFLNTDSO | WPBHFLGADSO |
| BCRTFLBTDSO | FTGRFLMARSO | JCVLFLFCDSO | MIAMFLPBDOS | PLCSFLMADSO | WPBHFLGR02T |
| BCRTFLMADS1 | FTLDFLCRDSO | JCVLFLIARSO | MIAMFLPLDSO | PLTKFLMADSO | WPBHFLGRDSO |
| BCRTFLSADSO | FTLDFLCYDSO | JCVLFLJTRSA | MIAMFLPLRSO | PMBHFLCSDSO | WPBHFLHSDSO |
| BGPIFLMARSO | FTLDFLJADSO | JCVLFLJFDSO | MIAMFLRRDSO | PMBHFLFEDSO | WPBHFLHHRSO |
| BKVLFLJFDSO | FTLDFLMRDSO | JCVLFLNODSO | MIAMFLSHDSO | PMBHFLMADSO | WPBHFLLEDOS |
| BLDWFLMARSO | FTLDFLOADSO | JCVLFLOWDSO | MIAMFLSODSO | PMBHFLNPRSO | WPBHFLR884E |
| BLGLFLMADSO | FTLDFLPLDSO | JCVLFLRV38E | MIAMFLWDDSO | PMBHFLTADSO | WPBHFLRPOSO |
| BNNFLMARSO | FTLDFLSGDSO | JCVLFLSJ73E | MIAMFLWMDSO | PMPKFLMARSO | WWSPFLHIDSO |
| BRSNFLMARSO | FTLDFLSU74E | JCVLFLSMDSO | MICCFLBRRSO | PNCYFLCARSO | WWSPFLSHDSO |
| BYBHFLMADSO | FTLDFLWSDSO | JCVLFLWCDSO | MLBRFLMADSO | PNCYFLMA04T | YNFNFLMARSO |
| CCBHFLAFRSO | FTRPFLMADSO | JPTRFLMADSO | MLTNFLRADSO | PNCYFLMADSO | YNTWFLMARSO |
| CCBHFLMADSO | GCSPFLCNDSO | KYHGFLMARSO | MNDRFLAVDSO | PNSCFBLDSDO | YULEFLMARSO |
| CDKYFLMARSO | GCVLFLMARSO | KYLRFLLSRSO | MNDRFLLODSO | PNSCFLFPDSO | |
| CFLDFLMARSO | GENVFLMARSO | KYLRFLMARSO | MNDRFLWRSDO | PNSCFLHCRSDO | |
| CHPLFLJADSO | GLBRFLMCDSO | KYWSFLMADSO | MNSNFLMARSO | PNSCFLPBDSO | |
| CNTMFLLED1 | GSVLFLMA01T | LKCYFLMADSO | MRTHFLVERSO | PNSCFLWA01T | |
| COCOFLMADSO | GSVLFLMADSO | LKMRFLHEDSO | MXVFLMARSO | PNSCFLWADSO | |
| COCOFLMEDSO | GSVLFLMADS1 | LYHNFLOHDSO | NDADFLACDSO | PNVDFLMADSO | |
| COCYFL13AMD | GSVLFLNW33E | MCNPFLMARSO | NDADFLBRDSO | PRRNFLMADSO | |
| CSCYFLBARSO | HAVNFLMADSO | MDBGFLPMDSO | NDADFLGG03T | PRSNFLFDRSO | |
| DBRYFLDLOSO | HBSDFLMADSO | MIAMFLAEDSO | NDADFLGGDSO | PTSLFLMADSO | |
| DBRYFLMARS1 | HLNVFLMADS1 | MIAMFLAERSO | NDADFLOLDSO | PTSLFLSOCGO | |
| DELDFLMADSO | HLWDFLHA45E | MIAMFLALDSO | NKLRFLMARSO | SBSTFLFERSO | |
| DLBHFLKPDOS | HLWDFLMADSO | MIAMFLAPDSO | NSBHFLMADSO | SBSTFLMADSO | |
| DLBHFLMA27E | HLWDFLPEDSO | MIAMFLBA85E | NWBYFLMARSO | SGKYFLMARSO | |
| DLBHFLMARSO | HLWDFLWHDSDO | MIAMFLBCDSO | OKHLFLMARSO | SNFRFLMADSO | |
| DLSPLMARSO | HMSTFLERSO | MIAMFLBRDSO | OLTWFLNRSO | STAGFLBSRSO | |
| DNLNFLWMRSO | HMSTFLHMDSO | MIAMFLCADSO | ORLDFLAPDSO | STAGFLMADSO | |
| DRBHFLMADSO | HMSTFLNARSO | MIAMFLDBRS1 | ORLDFLCLDSO | STAGFLSHRSO | |
| DYBHFLFNRSO | HTISFLMADSO | MIAMFLFDSO | ORLDFLMA04T | STAGFLWGRSO | |
| DYBHFLMADSO | HWTHFLMARSO | MIAMFLGRDSO | ORLDFLMADS1 | STRTFLMADSO | |
| DYBHFLQBDOS | ISLMFLMARSO | MIAMFLGRDS1 | ORLDFLPCDSO | SYHSFLCCRSO | |
| DYBHFLQSRSO | JAY FLMARSO | MIAMFLHLDSDO | ORLDFLPHDSO | TRENFLMARSO | |
| DYBHFLPO01T | JCBHFLABRSO | MIAMFLICDSO | ORLDFLSADSO | TTVLFLMADSO | |
| DYBHFLPODSO | JCBHFLMA24E | MIAMFLKEDSO | ORPKFLMADSO | VERNFLMARSO | |
| EGLFLBQDSO | JCBHFLSPRSO | MIAMFLME32E | ORPKFLRWDSO | VRBHFLBERSO | |
| EGLFLJHDSO | JCVLFLARDSDO | MIAMFLMERSO | OVIDFLCADSO | VRBHFLMADSO | |
| EORNFLMARSO | JCVLFLBWDSO | MIAMFLNMDSO | PACEFLPVRSDO | WELKFLMARSO | |