

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: June 6, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Fogleman, Day, Deas,^{CH} Mallow)
Office of the General Counsel (Farooqi, Marquez)^{AEH}

RE: Docket No. 20240082-TP – Petition for designation as an eligible telecommunications carrier in the State of Florida, by American Broadband and Telecommunications Company LLC.
Proposed Agency Action # 6/6/24

AGENDA: 06/18/24 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On April 26, 2024, American Broadband and Telecommunications Company LLC (American Broadband 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 of providing Lifeline service to qualifying consumers throughout Florida. American Broadband is a provider of commercial mobile radio service (CMRS) and offers prepaid wireless telecommunications services to consumers as a reseller. Specifically, American Broadband uses the network infrastructure and wireless transmission facilities of T-Mobile USA, Inc. (T-Mobile) to operate as a Mobile Virtual Network Operator. American Broadband is currently designated as an ETC providing Lifeline service in 21 other states. As a CMRS provider, American Broadband

is regulated as a common carrier pursuant to 47 U.S.C. § 153(11).¹ American Broadband is a Delaware limited liability company that is privately held by American Broadband and Telecommunications Holdings Inc.

American Broadband 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. American Broadband 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.² 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.³

¹ 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).

² House Bill 1231 (2011), effective July 1, 2011.

³ Senate Bill 478 (2024), effective April 15, 2024.

Discussion of Issues

Issue 1: Should American Broadband be granted an ETC designation to provide Lifeline service throughout the State of Florida?

Recommendation: Yes. American Broadband 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. (Fogleman, Day, Deas, Mallow)

Staff Analysis: ETC designation is necessary for telecommunications companies to participate in the federal Lifeline program.⁴ 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.⁵ 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;⁶

⁴ 47 C.F.R. § 54.201(a).

⁵ 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 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."

⁶ 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;⁷ and
- 2) Participate in the Lifeline Promotion Process.⁸

Forbearance of Facilities Requirements

American Broadband 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 Federal Communications Commission (FCC). On May 25, 2012, the FCC approved American Broadband'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 American Broadband committed to do the following:⁹

- 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 American Broadband 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, American Broadband is eligible for designation as a Lifeline only ETC in Florida.

Financial, Managerial, and Technical Capabilities

As noted in its petition, American Broadband has offered service since 2004 and has not filed for any form of bankruptcy relief. The Company has operated as an ETC in 21 states and has not

⁷ 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 .

⁸ 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.

⁹ 47 C.F.R. § 54.202(a)

been subject to any ETC revocation proceedings. The Company has 20 years of technical and managerial experience, and it does not rely exclusively on Lifeline reimbursements for its operating revenues. As American Broadband will be providing resold wireless service, it will also rely upon the managerial and technical expertise of its underlying carrier. American Broadband resolved all FCC enforcement proceedings in 2022.¹⁰

Public Interest

State commissions are required to find that ETC designation is in the public interest.¹¹ American Broadband asserts granting its ETC designation will bring Lifeline eligible consumers more choice in providers. In Florida, consumers are currently limited to three wireless Lifeline providers. These three companies represent 98 percent of the Lifeline market in Florida.¹² However, the FPSC's estimated Lifeline participation rate for the last two years has hovered around 18 percent.¹³ The increase in carriers servicing this market may increase participation through additional marketing and would serve the public interest.

Conclusion

Staff has reviewed American Broadband's petition for ETC designation in Florida. American Broadband meets all the requirements for designation as an ETC. Additionally, the Company has demonstrated sufficient financial, managerial, and technical capabilities. Therefore, staff recommends American Broadband 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.

¹⁰ FCC, Order, DA 22-421, Released June 3, 2022.

¹¹ 47 U.S.C. § 214(e)(2).

¹² 2023 Florida Lifeline Assistance Report, December 2023, Appendix C, p 24.

¹³ 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.

**AMERICAN BROADBAND AND TELECOMMUNICATIONS COMPANY
FLORIDA
SERVICE AREA ZIP CODES**

32003	32112	32209	32324	32439	32563	32680	32796
32008	32113	32210	32327	32440	32564	32683	32798
32009	32114	32211	32328	32442	32565	32686	32801
32011	32117	32212	32330	32443	32566	32693	32803
32024	32118	32214	32331	32444	32567	32694	32804
32025	32119	32216	32332	32445	32568	32696	32805
32033	32124	32217	32333	32446	32569	32701	32806
32034	32127	32218	32334	32448	32570	32702	32807
32038	32128	32219	32336	32449	32571	32703	32808
32040	32129	32220	32340	32455	32577	32707	32809
32043	32130	32221	32343	32456	32578	32708	32810
32044	32131	32222	32344	32459	32579	32709	32811
32046	32132	32223	32346	32460	32580	32712	32812
32052	32134	32224	32347	32461	32583	32713	32814
32053	32136	32225	32348	32462	32601	32714	32815
32054	32137	32226	32350	32463	32603	32720	32816
32055	32139	32227	32351	32464	32605	32723	32817
32058	32140	32228	32352	32465	32606	32724	32818
32059	32141	32233	32355	32466	32607	32725	32819
32060	32145	32234	32356	32501	32608	32726	32820
32061	32148	32244	32358	32502	32609	32730	32821
32062	32159	32246	32359	32503	32610	32732	32822
32063	32162	32250	32360	32504	32611	32735	32824
32064	32163	32254	32399	32505	32612	32736	32825
32065	32164	32256	32401	32506	32615	32738	32826
32066	32168	32257	32403	32507	32617	32744	32827
32067	32169	32258	32404	32508	32618	32746	32828
32068	32174	32259	32405	32509	32619	32750	32829
32071	32176	32266	32407	32511	32621	32751	32830
32073	32177	32277	32408	32512	32622	32754	32831
32080	32179	32301	32409	32514	32625	32757	32832
32081	32180	32303	32413	32520	32626	32759	32833
32082	32181	32304	32420	32526	32628	32763	32835
32083	32182	32305	32421	32531	32631	32764	32836
32084	32187	32306	32423	32533	32639	32765	32837
32086	32189	32307	32424	32534	32640	32766	32839
32087	32190	32308	32425	32535	32641	32767	32901
32091	32193	32309	32426	32536	32643	32771	32903
32092	32195	32310	32427	32539	32648	32773	32904
32094	32202	32311	32428	32541	32653	32776	32905
32095	32203	32312	32430	32542	32656	32778	32907
32096	32204	32313	32431	32544	32664	32779	32908
32097	32205	32317	32433	32547	32666	32780	32909
32099	32206	32320	32435	32548	32667	32784	32919
32102	32207	32321	32437	32550	32668	32789	32920
32110	32208	32322	32438	32561	32669	32792	32922

**AMERICAN BROADBAND AND TELECOMMUNICATIONS COMPANY
FLORIDA
SERVICE AREA ZIP CODES**

32925	33030	33138	33195	33415	33496	33604	33759
32926	33031	33139	33196	33416	33498	33605	33760
32927	33032	33140	33199	33417	33510	33606	33761
32931	33033	33141	33256	33418	33511	33607	33762
32934	33034	33142	33301	33420	33513	33609	33763
32935	33035	33143	33304	33421	33514	33610	33764
32937	33036	33144	33305	33426	33521	33611	33765
32940	33037	33145	33306	33428	33523	33612	33767
32948	33039	33146	33308	33430	33525	33613	33770
32949	33040	33147	33309	33431	33527	33614	33771
32950	33042	33149	33310	33432	33534	33615	33772
32951	33043	33150	33311	33433	33538	33616	33773
32952	33050	33154	33312	33434	33540	33617	33774
32953	33051	33155	33313	33435	33541	33618	33776
32955	33054	33156	33314	33436	33542	33619	33777
32958	33055	33157	33315	33437	33543	33620	33778
32960	33056	33158	33316	33438	33544	33621	33781
32961	33060	33160	33317	33440	33545	33622	33782
32962	33062	33161	33319	33441	33547	33624	33785
32963	33063	33162	33321	33442	33548	33625	33786
32966	33064	33165	33322	33444	33549	33626	33801
32967	33065	33166	33323	33445	33556	33629	33803
32968	33066	33167	33324	33446	33558	33634	33805
32969	33067	33168	33325	33448	33559	33635	33807
32976	33068	33169	33326	33449	33563	33637	33809
33001	33069	33170	33327	33455	33565	33647	33810
33004	33070	33172	33328	33458	33566	33701	33811
33009	33071	33173	33330	33460	33567	33702	33812
33010	33073	33174	33331	33461	33569	33703	33813
33012	33076	33175	33332	33462	33570	33704	33815
33013	33101	33176	33334	33463	33572	33705	33823
33014	33109	33177	33351	33467	33573	33706	33825
33015	33122	33178	33388	33469	33574	33707	33827
33016	33125	33179	33401	33470	33576	33708	33830
33018	33126	33180	33403	33471	33578	33709	33834
33019	33127	33181	33404	33472	33579	33710	33837
33020	33128	33182	33405	33473	33584	33711	33838
33021	33129	33183	33406	33476	33585	33712	33839
33022	33130	33184	33407	33477	33586	33713	33840
33023	33131	33185	33408	33478	33592	33714	33841
33024	33132	33186	33409	33480	33594	33715	33843
33025	33133	33187	33410	33483	33596	33716	33844
33026	33134	33189	33411	33484	33597	33730	33846
33027	33135	33190	33412	33486	33598	33744	33847
33028	33136	33193	33413	33487	33602	33755	33848
33029	33137	33194	33414	33493	33603	33756	33849

**AMERICAN BROADBAND AND TELECOMMUNICATIONS COMPANY
FLORIDA
SERVICE AREA ZIP CODES**

33850	33928	34120	34269	34602	34747
33852	33930	34134	34275	34604	34748
33853	33931	34135	34285	34606	34753
33854	33935	34138	34286	34607	34756
33855	33936	34139	34287	34608	34758
33856	33944	34140	34288	34609	34759
33857	33946	34141	34289	34610	34760
33859	33947	34142	34291	34613	34761
33860	33948	34145	34292	34614	34762
33863	33950	34201	34293	34637	34769
33865	33952	34202	34420	34638	34771
33867	33953	34203	34423	34639	34772
33868	33954	34205	34428	34652	34773
33870	33955	34207	34429	34653	34785
33872	33956	34208	34431	34654	34786
33873	33957	34209	34432	34655	34787
33875	33960	34210	34433	34661	34788
33876	33965	34211	34434	34667	34797
33877	33966	34212	34436	34668	34945
33880	33967	34215	34442	34669	34946
33881	33971	34216	34445	34677	34947
33884	33972	34217	34446	34679	34949
33888	33973	34219	34448	34681	34950
33890	33974	34221	34449	34683	34951
33896	33976	34222	34450	34684	34952
33897	33980	34223	34452	34685	34953
33898	33981	34224	34453	34688	34956
33901	33982	34228	34461	34689	34957
33902	33983	34229	34465	34690	34972
33903	33990	34231	34470	34691	34974
33904	33991	34232	34471	34695	34979
33905	33993	34233	34472	34698	34981
33906	34101	34234	34473	34705	34982
33907	34102	34235	34474	34711	34983
33908	34103	34236	34475	34714	34984
33909	34104	34237	34476	34715	34985
33912	34105	34238	34478	34729	34986
33913	34108	34239	34479	34731	34987
33914	34109	34240	34480	34734	34988
33916	34110	34241	34481	34736	34990
33917	34112	34242	34482	34737	34994
33919	34113	34243	34484	34739	34996
33920	34114	34251	34488	34741	34997
33921	34116	34260	34491	34743	
33922	34117	34266	34498	34744	
33924	34119	34267	34601	34746	