

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: December 20, 2024

TO: Office of Commission Clerk (Teitzman)

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

RE: Docket No. 20240088-TP – Petition for designation as an eligible telecommunications carrier in the State of Florida, by Prepaid Wireless Group, LLC.

AGENDA: 01/07/25 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On May 16, 2024, Prepaid Wireless Group, LLC (PWG 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. PWG is a provider of commercial mobile radio service (CMRS), and asserts it is providing prepaid wireless telecommunications services to consumers using its own facilities, as well as resale agreements with T-Mobile. As a CMRS provider, PWG is

regulated as a common carrier pursuant to 47 U.S.C. § 153(11).¹ PWG is a Limited Liability Company that was organized in the State of Maryland on June 29, 2012.

PWG asserts it meets all applicable federal requirement for designation as a Lifeline-only ETC in Florida pursuant to 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201. PWG 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.

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. In addition, Section 364.10(3), F.S., specifically grants the Commission jurisdiction to designate wireless ETC petitions for Lifeline purposes only.

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).

Discussion of Issues

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

Recommendation: No. PWG should not be granted an ETC designation to provide Lifeline service throughout the State of Florida. (Mallow, Day, Deas, Fogleman)

Staff Analysis: ETC designation is necessary for telecommunications companies to participate in the federal Lifeline program.² Section 364.10, F.S., allows the Commission to approve wireless Lifeline ETC petitions by requesting carriers. Specifically, Section 364.10(1)(a) and (3)(a), F.S., provide that the Commission has the authority to designate a commercial mobile radio service provider as an ETC for the limited purpose of providing Lifeline service. 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;³
- 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; and
- 2) Participate in the Lifeline Promotion Process.

² 47 U.S.C. § 254(e)

³ 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.

Facilities Requirement

To qualify as an ETC, federal rules specify that a telecommunications carrier must offer the services that are supported by the federal universal support mechanism either using its own facilities or a combination of its own facilities and resale of another carrier's services.⁴ Carriers may seek forbearance of the facilities requirements from the FCC.⁵

In its petition, PWG asserts it plans to offer all of the supported services enumerated under Section 254(c) of the Act through its own facilities as well as through its wireless resale agreement with T-Mobile. Staff sought verification regarding how PWG complies with the facilities requirement. PWG's petition included confidential documentation regarding its facilities that was vague and did not clearly demonstrate compliance with federal rules. Staff attempted to obtain additional information necessary to support the facilities requirements, however staff's numerous data requests remain unanswered by the Company. A timeline of staff's efforts to obtain the necessary information is outlined below:

June 3, 2024: An email was sent to PWG's attorney, requesting additional information about Florida facilities and/or an FCC compliance plan, number-portability charges and other state ETC designations.

June 10, 2024: The June 3rd email was resent to PWG reiterating the request for the same information.

June 13, 2024: Staff received an email from PWG's CEO, requesting an in person meeting to discuss the facilities. However, number portability and other state ETC designations were not addressed in the email. Staff responded to the meeting request and posted additional questions regarding the CEO's association with Global Connections ETC designation. No response regarding Global Connections was received.

July 23, 2024: A Zoom meeting was held between staff and PWG's CEO, attorney, and technical team member to discuss the facilities in Florida. PWG assured staff that documentation regarding its facilities would be provided.

August 15, 2024: An email was sent to PWG's attorney to follow up on the documentation discussed in the July 23rd meeting. The attorney

⁴ 47 C.F.R. § 54.201(d)(1)

⁵ FCC, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 11-42, FCC 12-11, released on February 6, 2011, ¶ 368. Forbearance means to refrain from the enforcement of a rule. As it is applied to here, the FCC allows carriers to participate in the federal Lifeline program even if it does not have its own facilities or a combination of its own facilities with another carrier facilities. Only the FCC can grant a "forbearance" from the facilities requirement. In this case, the company did not produce evidence that it had received a forbearance from the facilities requirement by the FCC.

requested that the docket be moved to the October agenda to allow more time to prepare the required documentation.

- August 19, 2024: An email was sent to PWG’s attorney requesting the facilities documentation by mid-September.
- September 5, 2024: An email was sent to PWG’s attorney and CEO requesting facilities documentation.
- September 9, 2024: The September 5th email was re-sent. In response, PWG requested another meeting.
- September 16, 2024: Another Zoom meeting was held between staff and PWG representatives. During the meeting PWG indicated it was waiting on signed agreements that would satisfy the facilities requirement and assured staff that documentation would be submitted soon.

Despite seven months of repeated email requests and two meetings with the Company representatives, PWG failed to submit the requested documentation regarding its Florida facilities. Additionally, responses to other data requests about its number portability and ETC designations in other states remain outstanding.

What constitutes “facilities” for the FCC is broadly defined in the federal regulations.⁶ For a wireless service provider, facilities includes antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its customers.⁷ PWG did not provide any documentation supporting that it has such equipment in Florida. What PWG filed was simply a description of its facilities that was vague and uninformative. It only referred to its proprietary network, without identifying qualifying facilities or network elements it owns. As such, PWG has not provided sufficient evidence that it provides services using its own facilities.

Conclusion

After reviewing PWG’s petition for ETC designation in Florida, staff recommends that PWG has not produced evidence to show compliance with the FCC requirements of 47 U.S.C § 214(e) and 47 C.F.R. § 54.201, and more specifically, the facilities-based requirements. Despite multiple requests and meetings, the company has persistently failed to provide the necessary documentation regarding its Florida facilities. Therefore, staff recommends that PWG’s petition for ETC designation be denied.

⁶ 47 CFR § 54.201(e) and (f) defines “facilities,” as any physical components of the telecommunications network that are used in the transmission or routing of the services that are designated for universal service support. A carrier’s “own facilities,” is further defined as includes, but is not limited to, facilities obtained as unbundled network elements, provided that such facilities meet the definition of the term “facilities.”

⁷ FCC, DA 04-3351, released October 22, 2004, ¶ 14.

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, Imig)

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.