

ORIGINAL

OPEN MEETING



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MEMORANDUM

Arizona Corporation Commission

DOCKETED

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TO: THE COMMISSION

FROM: Utilities Division

DATE: April 28, 2015

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

RE: IN THE MATTER OF THE APPLICATION OF CRICKET COMMUNICATIONS, INC. FOR APPROVAL OF RELINQUISHMENT OF ITS ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION. (DOCKET NO. T-20721A-15-0038)

Introduction

On February 10, 2015, Cricket Communications, Inc. ("Cricket") filed an application requesting approval to relinquish its Lifeline-only Eligible Telecommunications Carrier ("ETC") designation in Arizona pursuant to 47 U.S.C. § 214(e)(4), 47 C.F.R. § 54.205, Arizona Administrative Code ("A.A.C.") R14-2-1107, and Arizona Corporation Commission ("Commission") Decision No. 72665, effective July 31, 2015. Cricket also requested the cancellation of its Arizona Informational Lifeline Tariff (A.C.C. No. 1) on that same date.

Background

In its application, Cricket states it is licensed by the Federal Communications Commission ("FCC") to provide commercial mobile radio service in Arizona. In Decision No. 72665, dated November 17, 2011, the Commission granted Cricket's request for designation as a Lifeline-only ETC in certain areas within Arizona.¹ On March 13, 2014, Cricket became a wholly owned, indirect subsidiary of AT&T Inc. ("AT&T") after receiving appropriate approvals, including from the FCC² and a waiver of the Commission's Affiliate Interest Rules A.A.C. R14-2-801, *et seq.*³

Cricket is relinquishing its ETC designation in all jurisdictions⁴ in which designation was granted and is preparing to shut down its legacy CDMA network, which will occur in some jurisdictions as early as March 2015 and will be completed no later than third quarter 2015. Another AT&T affiliate, New Cricket,⁵ is offering 4G GSM wireless service, but will not participate in the

¹ Docket No. T-20721A-10-0019, Decision No. 72665.
² *Applications of Cricket License Company, LLC, et al., Leap Wireless International, Inc., and AT&T Inc. for Consent to Assignment of Authorization*, Memorandum Opinion and Order, WT Docket No. 13- 193, DA 14-349 (rel. March 13, 2014) ("Cricket Transfer Order").
³ Docket Nos. T-20872A-13-0282 and T-20874A-13-0282, Administrative Closure Number 74145 (Oct. 23, 2013).
⁴ Arkansas, Arizona, California, Colorado, District of Columbia, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, North Carolina, Nebraska, New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington and Wisconsin.
⁵ Cricket Wireless LLC ("New Cricket"), formerly known as Aio, is a wholly-owned, indirect subsidiary of AT&T.

federal Lifeline program. Current legacy CDMA Cricket Lifeline customers have the option to migrate to the New Cricket GSM network and rate plans at the same rate as non-Lifeline customers or select another ETC for Lifeline service as discussed below.

Cricket offers prepaid wireless service to its Lifeline and non-Lifeline customers. Service is paid in advance for 30 days of services after which customers may choose to either pay for another 30 days of service or discontinue service by not paying. Lifeline customers have received their Lifeline benefit by receiving a \$9.25 credit for whatever Cricket service plan they select. Cricket does not require deposits and does not have service contracts with its customers, thus there are no early termination fees.

Federal ETC Relinquishment Requirements

The federal requirements for a carrier to relinquish its ETC designation are outlined in 47 U.S.C. § 214(e)(4), which states:

(4) RELINQUISHMENT OF UNIVERSAL SERVICE.--A State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission of such relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The State commission shall establish a time, not to exceed one year after the State commission approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.

Also see 47 C.F.R. § 54-205(a) and (b).

Designated Service Area

Cricket provided an amended Exhibit B, a list of the ninety-two wire centers⁶ where it is currently designated as an ETC and is requesting to relinquish that status. Each of the affected wire centers is served by an Incumbent Local Exchange Carrier ("ILEC"), ninety of which are served Qwest Corporation dba CenturyLink QC ("Qwest") while Accipiter Communications, Inc. ("Accipiter") and Midvale Telephone Company, Inc. ("Midvale") serve one wire center each. Each

⁶ Notice of Errata Regarding Exhibit B to the Application, filed April 7, 2015 in this docket.

of these ILECs is designated as an ETC.⁷ At the end of amended Exhibit B, Cricket also identifies thirteen competitive ETCs, including Lifeline-only providers, which provide service in at least part of Cricket's designated service area. Since there is at least one additional ETC in each of Cricket's designated areas, Cricket states there is no bar to prevent it from relinquishing its Arizona ETC designation and the requirements for relinquishment set forth in 47 U.S.C. § 214(e)(4) and 47 C.F.R. § 54.205 have been met.

Further, because other ETCs currently serve the entire area in which Cricket is designated as an ETC in Arizona, Cricket states there is no need for those carriers to purchase or construct additional facilities to ensure that Cricket's Lifeline customers will receive service. Therefore, the Commission does not need to provide notice to ETCs serving the area to permit them to purchase or construct facilities to ensure that Cricket's customers will continue to receive service because sufficient facilities already exist.

There are currently three ILECs and thirteen competitive ETCs designated to provide service in at least part of Cricket's designated service area in Cricket's designated service area. If Cricket is allowed to relinquish its ETC designation for its current service area, all of Cricket's Lifeline subscribers will have at least one other ETC available from which to obtain Lifeline Service. In addition, because sufficient facilities already exist, notice to permit the purchase or construction of adequate facilities by any remaining ETC should not be required. Based on the information above, Staff believes that Cricket meets the FCC's ETC relinquishment criteria.

Customer and Published Notice

Cricket states in its application that on February 7, 2015, it provided written notice by US Mail to each of its Lifeline customers, notifying them of its plans to relinquish its ETC status in Arizona, that it would no longer participate in the Lifeline program and that it will file an application with the Commission seeking approval of that change. The letter also informed these customers that, upon ETC relinquishment, Cricket will offer each Lifeline customer the option of transitioning to a 4G GSM wireless calling plan offered by New Cricket. The letter also informed each affected customer that a Lifeline discount could be obtained from the remaining ETC(s) in the area. A sample copy of the notification letter Cricket sent its Lifeline customers was included in the application and labelled Exhibit A. Cricket provided information to Staff that indicates Cricket had 9,694 Lifeline customers in Arizona as of February 28, 2015 and 6,162 Lifeline customers as of March 31, 2015.

In addition, once the Commission approves Cricket's request to no longer participate in the Lifeline program, Cricket states it will send each Lifeline customer at least one reminder regarding the discontinuation of the Lifeline discount. The message will also direct the customer to websites with information about New Cricket's offers and alternative Lifeline providers.

⁷ Qwest – Decision No. 60513, dated December 18, 1997, Accipiter – Decision No. 60549, dated December 18, 1997 and Midvale – Decision No. 60554, dated December 18, 1997.

Pursuant to A.A.C. R14-2-1107(B), Cricket published legal notice of the application in all affected counties. On March 25, 2015, Cricket filed affidavits of publication concerning publication of notice in the *Arizona Republic*, *Casa Grande Dispatch*, *Arizona Daily Star* and *Nogales International*.

Recommendation

As of March 31, 2015, Cricket had 6,162 Lifeline customers in Arizona. Cricket does not collect deposits or require service contracts from its Arizona Lifeline customers. Qwest, Accipiter and Midvale are ILECs and designated ETCs serving the wire centers in Cricket's designed service area. In addition, there are also thirteen other competitive ETCs which provide service in at least part of Cricket's designated service area. Therefore, Staff recommends approval of Cricket's ETC designation relinquishment as of July 31, 2015. In addition, Staff recommends that Cricket's Arizona Informational Lifeline Tariff be cancelled and withdrawn effective July 31, 2015. Finally, Staff recommends that Cricket file an affidavit with Docket Control informing the Commission that all activities to shut down its legacy CDMA network have been completed, within thirty (30) days of their completion.



for

Steven M. Olea
Director
Utilities Division

SMO:LLM:vsc\MAS

ORIGINATOR: Lori L. Morrison

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BEFORE THE ARIZONA CORPORATION COMMISSION

SUSAN BITTER SMITH
Chairman
BOB STUMP
Commissioner
BOB BURNS
Commissioner
DOUG LITTLE
Commissioner
TOM FORESE
Commissioner

IN THE MATTER OF THE APPLICATION)
OF CRICKET COMMUNICATIONS, INC.)
FOR APPROVAL OF RELINQUISHMENT)
OF ITS ELIGIBLE)
TELECOMMUNICATIONS CARRIER)
DESIGNATION)

DOCKET NO. T-20721A-15-0038
DECISION NO. _____
ORDER

Open Meeting
May 12 and 13, 2015
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On February 10, 2015, Cricket Communications, Inc. ("Cricket") filed an application requesting approval to relinquish its Lifeline-only Eligible Telecommunications Carrier ("ETC") designation in Arizona pursuant to 47 U.S.C. § 214(e)(4), 47 C.F.R. § 54.205, Arizona Administrative Code ("A.A.C.") R14-2-1107, and Arizona Corporation Commission ("Commission") Decision No. 72665, effective July 31, 2015. Cricket also requested the cancellation of its Arizona Informational Lifeline Tariff (A.C.C. No. 1) on that same date.

Background

2. In its Application, Cricket states it is licensed by the Federal Communications Commission ("FCC") to provide commercial mobile radio service in Arizona.

...
...

1 3. In Decision No. 72665, dated November 17, 2011, the Commission granted Cricket's
2 request for designation as a Lifeline-only ETC in certain areas within Arizona.¹

3 4. On March 13, 2014, Cricket became a wholly owned, indirect subsidiary of AT&T Inc.
4 ("AT&T") after receiving appropriate approvals, including from the FCC² and a waiver of the
5 Commission's Affiliate Interest Rules A.A.C. R14-2-801, *et seq.*³

6 5. Cricket is relinquishing its ETC designation in all jurisdictions⁴ in which designation
7 was granted and is preparing to shut down its legacy CDMA network, which will occur in some
8 jurisdictions as early as March 2015 and will be completed no later than third quarter 2015. Another
9 AT&T affiliate, New Cricket,⁵ is offering 4G GSM wireless service, but will not participate in the
10 federal Lifeline program. Current legacy CDMA Cricket Lifeline customers have the option to
11 migrate to the New Cricket GSM network and rate plans at the same rate as non-Lifeline customers or
12 select another ETC for Lifeline service as discussed below.

13 6. Cricket offers prepaid wireless service to its Lifeline and non-Lifeline customers.
14 Service is paid in advance for 30 days of services after which customers may choose to either pay for
15 another 30 days of service or discontinue service by not paying. Lifeline customers have received their
16 Lifeline benefit by receiving a \$9.25 credit for whatever Cricket service plan they select. Cricket does
17 not require deposits and does not have service contracts with its customers, thus there are no early
18 termination fees.

19 . . .

20 . . .

21 ¹Docket No. T-20721A-10-0019, Decision No. 72665.

22 ² *Applications of Cricket License Company, LLC, et al., Leap Wireless International, Inc., and AT&T Inc. for Consent to Assignment of*
23 *Authorization, Memorandum Opinion and Order, WT Docket No. 13- 193, DA 14-349 (rel. March 13, 2014) ("Cricket*
24 *Transfer Order").*

25 ³Docket Nos. T-20872A-13-0282 and T-20874A-13-0282, Administrative Closure Number 74145 (Oct. 23, 2013).

26 ⁴ Arkansas, Arizona, California, Colorado, District of Columbia, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky,
27 Maryland, Missouri, North Carolina, Nebraska, New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania,
South Carolina, Tennessee, Texas, Utah, Virginia, Washington and Wisconsin.

28 ⁵ Cricket Wireless LLC ("New Cricket"), formerly known as Aio, is a wholly-owned, indirect subsidiary of AT&T.

Federal ETC Relinquishment Requirements

7. The federal requirements for a carrier to relinquish its ETC designation are outlined in 47 U.S.C. § 214(e)(4), which states:

(4) RELINQUISHMENT OF UNIVERSAL SERVICE.--A State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission of such relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The State commission shall establish a time, not to exceed one year after the State commission approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.

Also see 47 C.F.R. § 54-205(a) and (b).

Designated Service Area

8. Cricket provided an amended Exhibit B, a list of the ninety-two wire centers⁶ where it is currently designated as an ETC and is requesting to relinquish that status. Each of the affected wire centers is served by an Incumbent Local Exchange Carrier ("ILEC"), ninety of which are served Qwest Corporation dba CenturyLink QC ("Qwest") while Accipiter Communications, Inc. ("Accipiter") and Midvale Telephone Company, Inc. ("Midvale") serve one wire center each. Each of these ILECs is designated as an ETC.⁷ At the end of amended Exhibit B, Cricket also identifies thirteen competitive ETCs, including Lifeline-only providers, which provide service in at least part of Cricket's designated service area. Since there is at least one additional ETC in each of Cricket's designated areas, Cricket states there is no bar to prevent it from relinquishing its Arizona ETC designation and the requirements for relinquishment set forth in 47 U.S.C. § 214(e)(4) and 47 C.F.R. § 54.205 have been met.

⁶ Notice of Errata Regarding Exhibit B to the Application, filed April 7, 2015 in this docket.

⁷ Qwest – Decision No. 60513, dated December 18, 1997, Accipiter – Decision No. 60549, dated December 18, 1997 and Midvale – Decision No. 60554, dated December 18, 1997.

1 9. Further, because other ETCs currently serve the entire area in which Cricket is
2 designated as an ETC in Arizona, Cricket states there is no need for those carriers to purchase or
3 construct additional facilities to ensure that Cricket's Lifeline customers will to receive service.
4 Therefore, the Commission does not need to provide notice to ETCs serving the area to permit them
5 to purchase or construct facilities to ensure that Cricket's customers will continue to receive service
6 because sufficient facilities already exist.

7 10. There are currently three ILECs and thirteen competitive ETCs designated to provide
8 service in at least part of Cricket's designated service area in Cricket's designated service area. If
9 Cricket is allowed to relinquish its ETC designation for its current service area, all of Cricket's Lifeline
10 subscribers will have at least one other ETC available from which to obtain Lifeline Service. In
11 addition, because sufficient facilities already exist, notice to permit the purchase or construction of
12 adequate facilities by any remaining ETC should not be required. Based on the information above,
13 Staff believes that Cricket meets the FCC's ETC relinquishment criteria.

14 **Customer and Published Notice**

15 11. Cricket states in its application that on February 7, 2015, it provided written notice by
16 US Mail to each of its Lifeline customers, notifying them of its plans to relinquish its ETC status in
17 Arizona, that it would no longer participate in the Lifeline program and that it will file an application
18 with the Commission seeking approval of that change. The letter also informed these customers that,
19 upon ETC relinquishment, Cricket will offer each Lifeline customer the option of transitioning to a
20 4G GSM wireless calling plan offered by New Cricket. The letter also informed each affected
21 customer that a Lifeline discount could be obtained from the remaining ETC(s) in the area. A sample
22 copy of the notification letter Cricket sent its Lifeline customers was included in the application and
23 labelled Exhibit A. Cricket provided information to Staff that indicates Cricket had 9,694 Lifeline
24 customers in Arizona as of February 28, 2015 and 6,162 Lifeline customers as of March 31, 2015.

25 12. In addition, once the Commission approves Cricket's request to no longer participate
26 in the Lifeline program, Cricket states it will send each Lifeline customer at least one reminder
27 regarding the discontinuation of the Lifeline discount. The message will also direct the customer to
28 websites with information about New Cricket's offers and alternative Lifeline providers.

1 13. Pursuant to A.A.C. R14-2-1107(B), Cricket published legal notice of the application in
2 all affected counties. On March 25, 2015, Cricket filed affidavits of publication concerning
3 publication of notice in the *Arizona Republic*, *Casa Grande Dispatch*, *Arizona Daily Star* and *Nogales*
4 *International*.

5 **Recommendation**

6 14. As of March 31, 2015, Cricket had 6,162 Lifeline customers in Arizona. Cricket does
7 not collect deposits or require service contracts from its Arizona Lifeline customers. Qwest,
8 Accipiter and Midvale are ILECs and designated ETCs serving the wire centers in Cricket's designed
9 service area. In addition, there are also thirteen other competitive ETCs which provide service in at
10 least part of Cricket's designated service area. Therefore, Staff recommends approval of Cricket's
11 ETC designation relinquishment as of July 31, 2015. In addition, Staff recommends that Cricket's
12 Arizona Informational Lifeline Tariff be cancelled and withdrawn effective July 31, 2015. Finally,
13 Staff recommends that Cricket file an affidavit with Docket Control informing the Commission that
14 all activities to shut down its legacy CDMA network have been completed, within thirty (30) days of
15 their completion.

16 CONCLUSIONS OF LAW

17 1. Cricket Communications, Inc. is a telecommunications company as defined in A.R.S. §
18 40 201(46) and is a "telecommunications carrier" as defined in 47 U.S.C. § 153(51). Cricket is also a
19 Commercial Mobile Radio Service provider as defined in 47 U.S.C. § 20.3 and A.A.C. R14-2-1201.

20 2. The Commission has jurisdiction over the subject matter of the application.

21 3. Under 47 U.S.C. § 214(e)(4), Cricket has provided advance notice to the Commission
22 that it is seeking to relinquish its ETC status, and there are no bars under 47 U.S.C. § 214(e)(4), to the
23 Commission approving Cricket's request to relinquish its ETC designation effective July 31, 2015.

24 4. Staff's findings and recommendations, as set forth herein, are reasonable and should
25 be adopted.

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ORDER

IT IS THEREFORE ORDERED that the Cricket Communications, Inc. request to relinquish its ETC status in Arizona pursuant to 47 U.S.C. § 214(e)(4) is hereby granted and shall be effective as of July 31, 2015.

IT IS FURTHER ORDERED that within 15 of the effective date of this Order, Cricket Communications, Inc. shall mail notice of the effective of this Order to its Lifeline customers in a form acceptable to Staff, and such notice shall give Lifeline customers at least 45 days from the date of the notice to make alternative arrangements for Lifeline service.

IT IS FURTHER ORDERED that Cricket Communications, Inc.'s Arizona Informational Lifeline tariff shall be cancelled and withdrawn effective July 31, 2015.

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IT IS FURTHER ORDERED that Cricket file an affidavit with Docket Control informing the Commission that all activities to shut down its legacy CDMA network have been completed, within thirty (30) days of their completion.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2015.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:LLM:vsc/MAS

1 SERVICE LIST FOR: CRICKET COMMUNICATIONS, INC.
2 DOCKET NO.: T-20721A-15-0038

3 Ms. Jennifer Cranston
4 Attorney for Cricket Communications, Inc.
5 Gallagher & Kennedy, P.A.
6 2575 East. Camelback Road.
7 Phoenix Arizona 85016-9225

8 Mr. Steven M. Olea
9 Director, Utilities Division
10 Arizona Corporation Commission
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Ms. Janice M. Alward
14 Chief Counsel, Legal Division
15 Arizona Corporation Commission
16 1200 West Washington Street
17 Phoenix, Arizona 85007

18 Ms. Lyn Farmer
19 Chief Administrative Law Judge,
20 Hearings Division
21 Arizona Corporation Commission
22 1200 West Washington Street
23 Phoenix, AZ 85007

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