

ORIGINAL

OPEN MEETING
MEMORANDUM



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Arizona Corporation Commission

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2015 DEC 21 P 2:40

TO: THE COMMISSION

DEC 21 2015

FROM: Utilities Division

AZ CORP COMMISSION
DOCKET CONTROL

DATE: December 21, 2015

DOCKETED BY *YH*

RE: IN THE MATTER OF THE APPLICATION OF AMERICAN BROADBAND AND TELECOMMUNICATIONS COMPANY FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER FOR THE SOLE PURPOSE OF RECEIVING FEDERAL UNIVERSAL LIFELINE SUPPORT IN SPECIFIED GEOGRAPHIC AREAS (DOCKET NO. T-20924A-15-0068)

1. PROCEDURAL HISTORY

On March 2, 2015, American Broadband and Telecommunications Company ("ABATC" or "Company") filed an Application requesting limited designation as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the "Act") and implementing rules of the Federal Communications Commission ("FCC"), including 47 C.F.R. §§ 54.101 through 54.207.

In its Application, ABATC requests that the Arizona Corporation Commission ("ACC" or "Commission") designate it as a wireless ETC for the sole purpose of receiving Federal Universal Service Fund ("FUSF") Lifeline¹ support so that it may provide Lifeline service to qualifying Arizona consumers. ABATC is not requesting high cost support, participation in the Link-Up program or support from the Arizona Universal Services Fund.

On March 9, 2015, the Arizona Local Exchange Carriers Association ("ALECA") filed a motion to intervene.

On March 16, 2015, ABATC and ALECA filed a Stipulation concerning ABATC's Application.

On March 24, 2015, a Procedural Order granted ALECA's request for intervention in this proceeding.

On May 5, 2015, ABATC filed an amended Exhibit B in the docket at the request of Staff.

¹ Federal Lifeline Assistance provides discounts on basic monthly service at the primary residence for qualified telephone subscribers. The federal support amount provided to the ETC is \$9.25.

2. BACKGROUND

ABATC is a Delaware Corporation, incorporated on July 30, 2007,² with its principal offices located at One Seagate, Toledo, Ohio 43604. ABATC proposes to provide wireless Lifeline services through the resale of Commercial Mobile Radio Service (“CMRS”) provided by T-Mobile USA (“T-Mobile”) and SprintCom Wireless and Nextel West Corp. (jointly “Sprint”).³ ABATC currently serves over 280,000 wireless customers nationwide,⁴ of which approximately 262,000 are Lifeline customers and has been granted ETC designation in seventeen (17) other jurisdictions.⁵ ABATC currently has petitions for ETC designation pending in six (6) jurisdictions⁶ in addition to Arizona and is also awaiting designation as an ETC by the FCC in ten (10) jurisdictions⁷. For its proposed designated service area, ABATC filed a list of wire centers in which it will provide service in amended Exhibit B on May 15, 2015.

On February 6, 2012, the FCC released an Order in FCC 12-11, *Lifeline and Link Up Reform and Modernization (“Lifeline Reform Order”)*,⁸ in which the FCC adopted comprehensive reforms to the low-income program to revise and modernize the Lifeline service requirements and implement measures to address fraud, waste and abuse of the FUSF. Within that Order, the FCC found that a grant of blanket forbearance of the requirement that an ETC use its own facilities (“the own-facilities requirement”) subject to certain public safety and compliance obligations, was appropriate for carriers seeking to provide Lifeline-only service.⁹ Specifically, in the *Lifeline Reform Order*, the FCC states it will conditionally grant forbearance from the Act’s Section 214(e)(1)(A) facilities requirement to all telecommunications carriers seeking Lifeline-only ETC designation, subject to the following conditions: (1) compliance with certain 911 and enhanced 911 (E911) public safety requirements and (2) FCC Wireline Competition Bureau approval of a compliance plan providing specific information regarding the carrier and its service offerings and outlining the measures the carrier will take to implement the obligations contained in the *Order*.¹⁰

On June 30, 2011, ABATC filed its initial draft Compliance Plan outlining its proposed compliance with the usual FCC conditions for ETCs. The FCC sought comment on the Plan and ABATC subsequently filed an updated draft Plan on December 2, 2011. ABATC submitted its

² Response to Staff Data Request STF 1.11.

³ See Application, Page 3 - ABATC will purchase the services of Sprint and T-Mobile through an intermediary such as Prepaid Wireless Group.

⁴ ABATC’s Amended Response to Staff Data Request STF 1.21, dated October 6, 2015.

⁵ See updated response to Staff Data Request STF 1.1 dated November 4, 2015: Colorado, Hawaii, Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nevada, Ohio, Puerto Rico, Rhode Island, South Carolina, Utah, West Virginia and Wisconsin.

⁶ See updated response to Staff Data Request STF 1.1 dated November 4, 2015: Arkansas, California, Georgia, Louisiana, Massachusetts and Pennsylvania.

⁷ See updated response to Staff’s First Set of Data Requests to STF 1.1 dated November 4, 2015: Connecticut, Delaware, District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, Texas and Virginia.

⁸ *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 11-42, FCC 12-11, released February 6, 2012 (“*Lifeline Reform Order*”).

⁹ *Ibid.*, at paras. 368-381.

¹⁰ See *id.* at paras. 373 and 389. Subsequently, the Bureau provided guidance for carriers submitting compliance plans pursuant to the *Lifeline Reform Order*. *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, WC Docket Nos. 09-197 and 11-42, Public Notice, 27 FCC Rcd 2186 (Wireline Comp. Bur. 2012).

initial Compliance Plan to the FCC in order to benefit from the “blanket forbearance” of the own-facilities requirement used to provide Lifeline services. ABATC submitted its Revised Compliance Plan (“RCP”) on March 13, 2012, making changes pursuant to the *Lifeline Reform Order* in order to benefit from the “blanket forbearance” of the own-facilities requirement used to provide Lifeline services. On April 27, 2012, ABATC filed its final RCP with the FCC, having made several minor revisions to the March 13, 2012 filing. On May 25, 2012, the FCC issued a Public Notice¹¹ approving ABATC’s April 27, 2012 RCP.

3. REQUIREMENTS FOR DESIGNATION AS AN ETC AND ABATC’S COMPLIANCE WITH THE REQUIREMENTS

Designation as an ETC makes a carrier eligible to receive federal universal service funds. The requirements for designation of ETCs are established in 47 U.S.C. § 214(e)(1), which states:

“A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall throughout the service area for which the designation is received: (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such services and the corresponding charges using media of general distribution.”

In order to be designated as an ETC, a carrier must offer Lifeline service to all qualifying low-income customers within its service area.¹² Lifeline service provides basic telephone service, typically by passing on discounts to monthly telecommunications charges. As a wireless reseller of prepaid wireless service, ABATC is proposing to offer qualified customers a free handset, free customer care calls, free balance inquiries, access to voice mail, caller I.D. and call waiting features at no additional charge, plus the choice of two (2) Lifeline plans or four (4) different prepaid calling plans available to non-Lifeline customers.¹³ ABATC also proposes to offer customers the capability of purchasing additional voice minutes and/or text messages.¹⁴

¹¹ See “Wireline Competition Bureau Approves the Compliance Plans of American Broadband & Telecommunications, Budget Prepay, Consumer Cellular, Global Connection, TerraCom and Total Call Mobile”, Public Notice from FCC Wireline Competition Bureau, WC Docket Nos. 09-197 and 11-42 (rel. May 25, 2012).

¹² 47 C.F.R. §§ 54.405 and 54.411(a)

¹³ See Application, Pages 8 -9 and Response to Staff Data Request STF 1.43. Plan Option 1 offers 250 voice minutes and 250 text messages per month at no charge to the Lifeline customer. Plan Option 2 offers 500 voice minutes and 500 text message for \$10.70 per month to Lifeline customers. In addition, Lifeline eligible customers are allowed to apply the Company’s Lifeline discount of \$9.25 to any of the following plans offered to non-Lifeline customers: a 30-day plan of Unlimited Voice/Text and 1 GB Data regularly priced at \$49.95, a 30-day plan of 1500 voice minutes and 1500 text messages regularly priced at \$29.95, a 30-day of 250 voice minutes and 1000 text messages regularly priced at \$19.95 or a 30-day plan of 4000 combined voice minutes and text messages regularly priced at \$34.25.

¹⁴ See Application, Pages 9-10.

As indicated above, the FCC granted ABATC forbearance from the own-facilities requirement that it provide service using its own facilities or a combination of its own facilities and resale of another carrier's service and also any criteria related to facilities build out plans. ABATC would be a Lifeline-only ETC, eligible only for Lifeline support and must meet all the other criteria required of ETCs.

A. Offering the Services Designated For Support

47 C.F.R. § 54.101, sets forth the services that a carrier must offer in order to receive Federal Universal Service Fund support. The services and ABATC's response to the provision of each service are as follows:

- (1) Voice grade access to the Public Switched Network. ABATC states¹⁵ that it provides voice grade access to the public switched telephone network through the purchase of wholesale CMRS services from T-Mobile USA, and Sprint.
- (2) Local usage. ABATC states¹⁶ it will provide Lifeline customers with minutes of use for local service at no additional charge to customers, as required by the FCC.
- (3) Access to emergency services. "An ETC must provide its customers with access to 911 and E911 emergency services. ABATC states¹⁷ that all of its customers will have access to emergency calling services and that 911 and E911 access will be available from ABATC's handsets even if the account associated with the handset has no minutes remaining.
- (4) Toll Limitation for Qualifying Low-Income Consumers. "ETCs must provide toll limitation services to qualifying low-income customers, unless their Lifeline offering does not distinguish between the pricing of toll and non-toll calls. ABATC's wireless calling plans do not distinguish between non-toll (i.e., local) and toll. ABATC's prepaid plans include a specific number of minutes that cannot be exceeded. Therefore, customers cannot incur any charges for excessive toll calling or be disconnected for non-payment.

In its Application, ABATC states¹⁸ that it has the ability to provide all of the supported services and functionalities required in the proposed ETC designated service area to all subscribers taking service under its Lifeline plan through resale of wireless services with its underlying wireless carriers. Based on the above information and explanations, Staff believes that ABATC meets this ETC designation criteria.

¹⁵ Application, Pages 7 and email clarification dated November 12, 2015.

¹⁶ Application, Pages 7-10 and email clarification dated November 12, 2015.

¹⁷ Application, Pages 10-11.

¹⁸ Application, Pages 6-7.

B. *Advertising of Supported Services*

47 U.S.C. § 214(e)(1)(B) requires a common carrier designated as an eligible telecommunications carrier to advertise the availability of such services and the corresponding charges using media of general distribution. ABATC states¹⁹ it will advertise the availability of its supported services and the corresponding rates and charges in a manner designed to inform the general public. ABATC advertises in media of general distribution, which includes print, media, web, and kiosks and advertising will occur principally through direct sales, kiosk and table cover marketing campaigns, and web lead generation, with ad words directing potential customers to ABATC's American Assistance website media channels.²⁰ Advertisements will be in both English and Spanish. ABATC submitted examples of prior relevant advertisements to Staff. In addition, ABATC submitted an example of its English version advertisement in its RCP to the FCC.²¹

Based on the information above and ABATC's advertising materials provided to Staff, Staff concludes that ABATC will advertise the availability of its supported services and the corresponding charges using media of general distribution as required by 47 U.S.C. § 214(e)(1)(B). Staff believes that ABATC meets this ETC designation criteria.

C. *Additional ETC Requirements*

In addition to the requirements listed above, the FCC adopted, in the *Lifeline Reform Order*, comprehensive reforms to the low-income program to revise and modernize the Lifeline service requirements and implement measures to address fraud, waste, and abuse within the system. Below are the additional requirements and ABATC's response to each requirement.

C.1 A Commitment and Ability to Provide Supported Services

In 47 C.F.R. § 54.202(a)(1)(i) and (ii), the FCC required the applicant to:

(i) Certify that it will comply with the service requirements applicable to the support that it receives; and

(ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to submit such a five-year plan.²²

¹⁹ Application, Page 12.

²⁰ Response to Staff Data Request STF 1.32, 1.33 and 1.34.

²¹ See Exhibit C of RCP filed with Application.

²² *Lifeline Reform Order*, ¶ 386.

ABATC certifies²³ that it will comply with the service requirements applicable to the low-income support it receives as a result of designation as an ETC for the purposes of receiving Lifeline. The requirement directing submissions of a formal network improvement plan under 47 C.F.R. § 54.202(a)(1)(ii) demonstrating how universal service funds will be used to improve coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high-cost support, does not apply to this Application because ABATC is seeking only to provide supported services under subpart E of this part, i.e. Lifeline only, and the FCC waived the facilities-based requirements for ABATC.

Based on the above information, Staff believes that ABATC meets this ETC designation criteria.

C.2 Remain Functional in Emergency Situations

In 47 C.F.R. § 54.202(a)(2), the FCC outlines the requirement that an ETC applicant demonstrate its ability to remain functional in emergency situations. Specifically, “an applicant must demonstrate that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.”²⁴

To demonstrate its ability to remain functional in emergency situations, ABATC states²⁵ it will utilize the extensive and well established Sprint and T-Mobile networks and facilities to provide ABATC’s mobile services and it is ABATC’s understanding that the Sprint and T-Mobile networks are capable of managing traffic spikes that may occur during emergency situations and can reroute traffic in the event of damaged facilities. In addition, ABATC also understands that each carrier has sufficient back-up power to ensure functionality if its external power supply is unavailable and that both companies have repeatedly certified to the FCC that their networks function in emergency situations.²⁶ Sprint and T-Mobile will provide the same functionality to ABATC and its customers as these carriers provide to themselves and their own customers. Therefore, through its underlying carriers, ABATC states it has the ability to remain functional in emergency situations.

Based on the above information, Staff concludes that ABATC has demonstrated its ability to remain functional in emergency situations by maintaining a reasonable amount of back-up power. Staff believes that ABATC meets this ETC designation criteria.

²³ See Application, Page 13.

²⁴ *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 05-46* (rel. March 17, 2005) (“*ETC Minimum Requirements Report and Order*”), ¶ 25.

²⁵ Application, Page 13.

²⁶ See, e.g., *Sprint Nextel Corporation Verified Filing in Compliance with 47 C.F. R. § 54.209*, CC Docket No. 96-45, at 6 (filed Sept. 30, 2011); *In the Matter of Telecommunications Carriers Eligible for Universal Service Support, Petition of T-Mobile USA, Inc. for Designation as a Low-Income Eligible Telecommunications Carrier, et al.*, WC Docket No. 09-197, at 20 (released Aug. 16, 2012).

C.3 Satisfy Consumer Protection and Service Quality Standards

In 47 C.F.R. § 54.202(a)(3), the FCC requires an ETC applicant to demonstrate its commitment to meeting consumer protection and service quality standards in its application.²⁷ The sufficiency of other commitments will be considered on a case-by-case basis.

To demonstrate its ability to satisfy consumer protection and service quality standards, ABATC states²⁸ it commits to comply with the Wireless Association's, originally known as the Cellular Telephone Industries Association's ("CTIA's") Consumer Code to ensure that the Company offers its subscribers the highest level of protection and quality service.

Based on the above information, Staff believes that ABATC meets this ETC designation criteria.

C.4 Lifeline-Only ETC Applicants – Financial and Technical Capability

In 47 C.F.R. § 54.202(a)(4), the FCC requires a Lifeline-only ETC applicant to demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of this part. In the *Lifeline Reform Order*²⁹ the FCC provides guidance on specific information to be considered when determining if an applicant meets this requirement:

“...Among the relevant considerations for such a showing would be whether the applicant previously offered services to non-Lifeline customers, how long its has been in business, whether the applicant intends to rely exclusively on USF distributions to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state.”

To demonstrate that ABATC is financially and technically capable of providing Lifeline service, ABATC states³⁰ its management has more than 50 years of experience in the telecommunications industry and it receives revenue from a number of sources which are completely independent from the revenue it will receive in the form of Lifeline reimbursements. ABATC further states its revenue stream includes income from the sale of non-lifeline prepaid and postpaid telecommunications services to customers in Illinois, Indiana, Kentucky, Michigan, Ohio, New York, Pennsylvania and Wisconsin. In addition, ABATC states it has provided non-Lifeline prepaid domestic telecommunications since 2004 and has a substantial non-Lifeline customer base and receives revenues from these non-Lifeline retail offerings. Consequently, ABATC states it will not be relying exclusively on Lifeline reimbursement for its operating revenues. Finally, ABATC states it has not been subject to ETC enforcement sanctions or revocation proceedings in any state.

²⁷ ETC Minimum Requirements Report and Order, ¶ 28.

²⁸ Application, Page 14.

²⁹ See *Lifeline Reform Order*, ¶388.

³⁰ See Application, Pages 14-15, RCP, Pages 18-19 and Response to Staff Data Request STF 1.10.

Having reviewed ABATC's financial statements and based on the above information, Staff believes that ABATC meets this ETC designation criteria.

C.5 Lifeline-Only ETC Applicants – Terms and Conditions of Lifeline Service Plans

In 47 C.F.R. § 54.202(a)(5), the FCC requires an ETC applicant to submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the ETC offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans.

ABATC provided Staff with its informational tariff³¹ in which it describes the calling plans for Lifeline subscribers, including the number of free minutes in each calling plan, along with the terms and conditions of Lifeline service as provided by ABATC. Based on the information contained in ABATC's informational tariff, Staff believes that ABATC meets this ETC designation criteria.

D. *Steps to Limit Fraud, Waste and Abuse of the FUSF*

In the *Lifeline Reform Order* the FCC adopted various new measures and revised or eliminated other existing measures in order to limit fraud, waste and abuse of the FUSF. These measures include establishing uniform eligibility criteria to qualify for Lifeline services, clarifying the restriction of one Lifeline telephone allowed per household, initial certification and annual re-certification of consumer eligibility, establishing a national lifeline accountability database to ensure and enforce the one-per-household requirement, total elimination of toll limitation support for wireless carriers and a tapered elimination of toll limitation support for landline ETCs, elimination of the Link Up subsidy except on federally-recognized tribal lands and establishing additional provisions for Universal Service Administrative Company ("USAC") audits.

In its Application³² and RCP, ABATC outlines the steps it will take to limit fraud, waste and abuse of the FUSF and to comply with all applicable Lifeline requirements and implement measures to prevent fraud, waste, and abuse.

E. *Public Interest Determination*

Under 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

³¹ Response to Staff Data Request STF 1.43.

³² See Application, Pages 15-16.

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.³³ Accordingly, before designating a carrier as an ETC, the Commission must make an affirmative determination that such designation is in the public interest, regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier.

ABATC states that by designating it as a wireless ETC in Arizona, it will serve the public interest and the needs of low-income customers in Arizona by increasing customer choice in the areas it serves. The public interest benefits associated with ABATC's wireless service include larger local calling areas (as compared to traditional wireline carriers), the convenience and personal security afforded by mobile telephone service, the opportunity for customers to receive a high-value wireless plan and emergency services in accordance with FCC Rules. Additionally, ETC status will promote universal service by allowing ABATC to offer wireless service to many low-income customers who may not be able to otherwise have service. ABATC's Lifeline calling plans are designed to provide service to Lifeline consumers who, due to credit or deposit requirements, may not be able to obtain telephone service from more traditional wireline and wireless service providers.

F. *Designated Service Area*

The Commission must establish a geographic area for the purpose of determining universal service obligations and support mechanisms for each designated ETC. *See* 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.201(b). ABATC requests that the Commission designate it as an ETC for service areas in Arizona. Through resale of wireless service provided by T-Mobile and Sprint in Arizona, ABATC will provide Lifeline service in many wire centers in the State of Arizona.

There are a number of wire centers that encompass both tribal lands and non-tribal lands. Some of the tribal lands are served by tribally-owned telephone companies and some of the tribal lands are served by non-tribally owned telephone companies. For those wire centers that encompass tribal lands, ABATC requested to serve the non-tribal areas of each wire center and to serve tribal lands within the service areas of Commission regulated telephone companies and cooperatives only after receiving any and all necessary licenses or other forms of approval that might be required by any Tribe and filing a copy of such licenses or other form of approval with the Commission, with a copy to ALECA's undersigned counsel. Attachment 1 of the Recommended Opinion and Order contains the list of wire centers to be served by ABATC.

4. INTERVENOR

A. *Arizona Local Exchange Carriers Association*

ALECA is an association of telephone companies and member-owned cooperatives providing local exchange telecommunications services to customers in rural, high cost areas of Arizona. All of ALECA's members are "rural telephone companies" as defined by the Act.

³³ ETC Minimum Requirements Report and Order, ¶ 40.

ALECA represents telephone companies and cooperatives that are regulated by the Commission as well as Tribally-owned telephone companies which are not regulated by the Commission.

B. Joint Stipulation

On March 16, 2015, ALECA and ABATC filed a Stipulation in the docket. In the Stipulation, to address the potential concerns expressed by ALECA, ABATC agreed not to provide Lifeline service to eligible residents residing on Federally-recognized Tribal Lands in Arizona until ABATC obtained any and all necessary licenses or other forms of approval that might be required by any Tribe and file a copy of such licenses or other form of approval with the Commission in this docket and a copy to ALECA's counsel. In addition, ABATC agreed that its Lifeline enrollment application for Arizona will require an applicant to provide a street address and include a provision that requires an applicant to self-certify under penalty of perjury that they do not reside on Federally-Recognized Tribal Lands or to identify the Federally-Recognized Tribe on the lands of which he or she resides.

Staff understands that the only Federally-Recognized Tribal Lands that are included in the Joint Stipulation are those served by Commission-regulated telephone companies and cooperatives and for which ABATC has obtained any and all necessary licenses or other forms of approval that might be required by any Tribe.³⁴

5. STAFF RECOMMENDATIONS

In addition to the conditions set forth by the FCC, Staff recommends ABATC's Application for designation as an ETC be granted subject to the following conditions:

- a. ABATC shall file a tariff, in this docket through Docket Control, setting forth the rates, terms and conditions for its Lifeline service within thirty (30) days of a Commission Order in this matter;
- b. ABATC shall notify the Commission of any future changes, through Docket Control, to its rates, terms and/or conditions regarding its Lifeline offerings and file such changes in its tariff and amend its tariff in compliance with A.R.S. § 40-367;
- c. ABATC shall make available Lifeline services to qualifying low-income applicants in its ETC service area no later than ninety (90) days after a Commission decision in this matter and shall concurrently notify the Commission, by making a filing in Docket Control, in this docket, of the commencement date for such services;
- d. ABATC shall apprise the Commission of any customer complaints that may arise from its ETC service offerings by making a filing in Docket Control in this docket;

³⁴ In order to provide Lifeline services on Federally-Recognized Tribal Lands served by Tribally-owned telephone companies, ABATC would need to petition the FCC for ETC designation in order to receive FUSF reimbursement.

- e. ABATC shall provide a regulatory contact to the Commission by making a filing in Docket Control in this docket within thirty (30) days of a Commission decision in this matter;
- f. In the event that ABATC requests to relinquish its ETC status and no longer provide Lifeline services, it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107 and any other requirements under Federal law;
- g. ABATC shall submit in Docket Control an annual report by April 15th of each year, beginning April 15, 2017, that contains its total number of Lifeline subscribers and the total amount of Federal USF support received as of December 31 of the previous year and include an affidavit stating that the Lifeline discounts or the equivalent are equal to the amount of total Federal USF support received per line. The annual filing shall be submitted as a compliance item in this docket;
- h. In the event of a Transfer of Control that involves ABATC, a new ETC petition shall be filed with the Commission. This will ensure ETCs undergoing reorganization remain financially viable and technically able to provide the supported services throughout the designated service areas as originally approved by the Commission;
- i. ABATC shall not expand its Lifeline service beyond the designated service area specified in this Application without acquiring ETC designation from the Commission to serve the additional area; and
- j. ABATC shall not provide Lifeline service to eligible residents residing on Federally-Recognized Tribal Lands in Arizona, served by Commission regulated telephone companies and cooperatives, until after ABATC has obtained any and all necessary licenses or other forms of approval that might be required by any Tribe and filed a copy of such licenses or other form of approval with the Commission in this docket, with a copy to ALECA's counsel.

for

Thomas M. Broderick
Director
Utilities Division

TMR:LLM:red\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 AMERICAN BROADBAND AND
 TELECOMMUNICATIONS COMPANY
 FOR DESIGNATION AS AN ELIGIBLE
 TELECOMMUNICATIONS CARRIER FOR
 THE SOLE PURPOSE OF RECEIVING
 FEDERAL UNIVERSAL LIFELINE
 SUPPORT IN SPECIFIED GEOGRAPHIC
 AREAS.

DOCKET NO. T-20924A-15-0068
 DECISION NO. _____
ORDER

Open Meeting
 January 12, 2016
 Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On March 2, 2015, American Broadband and Telecommunications Company (“ABATC” or “Company”) filed an Application requesting limited designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (“Act”) and implementing rules of the Federal Communications Commission (“FCC”), including 47 C.F.R. §§ 54.101 through 54.207.

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1 Arizona consumers. ABATC is not requesting high cost support, participation in the Link-Up
2 program or support from the Arizona Universal Services Fund.

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4 a motion to intervene.

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6 Application.

7 5. On March 24, 2015, a Procedural Order granted ALECA's request for intervention in
8 this proceeding.

9 6. On May 5, 2015, ABATC filed an amended Exhibit B in the docket at the request of
10 Staff.

11 **BACKGROUND**

12 7. ABATC is a Delaware Corporation, incorporated on July 30, 2007,² with its principal
13 offices located at One Seagate, Toledo, Ohio 43604. ABATC proposes to provide wireless Lifeline
14 services through the resale of Commercial Mobile Radio Service ("CMRS") provided by T-Mobile
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24 ³ See Application, Page 3 - ABATC will purchase the services of Sprint and T-Mobile through an intermediary such as Prepaid Wireless Group.

25 ⁴ ABATC's Amended Response to Staff Data Request STF 1.21, dated October 6, 2015.

26 ⁵ See updated response to Staff Data Request STF 1.1 dated November 4, 2015: Colorado, Hawaii, Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nevada, Ohio, Puerto Rico, Rhode Island, South Carolina, Utah, West Virginia and Wisconsin.

27 ⁶ See updated response to Staff Data Request STF 1.1 dated November 4, 2015: Arkansas, California, Georgia, Louisiana, Massachusetts and Pennsylvania.

28 ⁷ See updated response to Staff's First Set of Data Requests to STF 1.1 dated November 4, 2015: Connecticut, Delaware, District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, Texas and Virginia.

1 8. On February 6, 2012, the FCC released an Order in FCC 12-11, *Lifeline and Link Up*
2 *Reform and Modernization* (“*Lifeline Reform Order*”),⁸ in which the FCC adopted comprehensive reforms to
3 the low-income program to revise and modernize the Lifeline service requirements and implement
4 measures to address fraud, waste and abuse of the FUSF. Within that Order, the FCC found that a
5 grant of blanket forbearance of the requirement that an ETC use its own facilities (“the own-facilities
6 requirement”) subject to certain public safety and compliance obligations, was appropriate for carriers
7 seeking to provide Lifeline-only service.⁹ Specifically, in the *Lifeline Reform Order*, the FCC states it will
8 conditionally grant forbearance from the Act’s Section 214(e)(1)(A) facilities requirement to all
9 telecommunications carriers seeking Lifeline-only ETC designation, subject to the following
10 conditions: (1) compliance with certain 911 and enhanced 911 (E911) public safety requirements; and
11 (2) FCC Wireline Competition Bureau approval of a compliance plan providing specific information
12 regarding the carrier and its service offerings and outlining the measures the carrier will take to
13 implement the obligations contained in the *Order*.¹⁰

14 9. On June 30, 2011, ABATC filed its initial draft Compliance Plan outlining its proposed
15 compliance with the usual FCC conditions for ETCs. The FCC sought comment on the Plan and
16 ABATC subsequently filed an updated draft Plan on December 2, 2011. ABACT submitted its initial
17 Compliance Plan to the FCC in order to benefit from the “blanket forbearance” of the own-facilities
18 requirement used to provide Lifeline services. ABATC submitted its Revised Compliance Plan
19 (“RCP”) on March 13, 2012, making changes pursuant to the *Lifeline Reform Order* in order to benefit
20 from the “blanket forbearance” of the own-facilities requirement used to provide Lifeline services.
21 On April 27, 2012, ABATC filed its final RCP with the FCC, having made several minor revisions to
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25 ⁸ *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC
26 Docket No. 11-42, FCC 12-11, released February 6, 2012 (“*Lifeline Reform Order*”).

27 ⁹ *Ibid.*, at paras. 368-381.

28 ¹⁰ *See id.* at paras. 373 and 389. Subsequently, the Bureau provided guidance for carriers submitting compliance plans pursuant to the *Lifeline Reform Order*. *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, WC Docket Nos. 09-197 and 11-42, Public Notice, 27 FCC Rcd 2186 (Wireline Comp. Bur. 2012).

1 the March 13, 2012 filing. On May 25, 2012, the FCC issued a Public Notice¹¹ approving ABATC's
2 April 27, 2012 RCP.

3 **REQUIREMENTS FOR DESIGNATION AS AN ETC AND ABATC'S COMPLIANCE**
4 **WITH THE REQUIREMENTS**

5 10. Designation as an ETC makes a carrier eligible to receive federal universal service
6 funds. The requirements for designation of ETCs are established in 47 U.S.C. § 214(e)(1), which
7 states:

8 "A common carrier designated as an eligible telecommunications carrier under
9 paragraph (2) or (3) shall be eligible to receive universal service support in accordance
10 with section 254 and shall throughout the service area for which the designation is
11 received: (A) offer the services that are supported by Federal universal service support
12 mechanisms under section 254(c), either using its own facilities or a combination of its
own facilities and resale of another carrier's services (including the services offered by
another eligible telecommunications carrier); and (B) advertise the availability of such
services and the corresponding charges using media of general distribution."

13 11. In order to be designated as an ETC, a carrier must offer Lifeline service to all
14 qualifying low-income customers within its service area.¹² Lifeline service provides basic telephone
15 service, typically by passing on discounts to monthly telecommunications charges. As a wireless
16 reseller of prepaid wireless service, ABATC is proposing to offer qualified customers a free handset,
17 free customer care calls, free balance inquiries, access to voice mail, caller I.D. and call waiting features
18 at no additional charge, plus the choice of two (2) Lifeline plans or four (4) different prepaid calling
19 plans available to non-Lifeline customers.¹³ ABATC also proposes to offer customers the capability
20 of purchasing additional voice minutes and/or text messages.¹⁴

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23 ¹¹ See "Wireline Competition Bureau Approves the Compliance Plans of American Broadband & Telecommunications,
Budget Prepay, Consumer Cellular, Global Connection, TerraCom and Total Call Mobile", Public Notice from FCC
24 Wireline Competition Bureau, WC Docket Nos. 09-197 and 11-42 (rel. May 25, 2012).

¹² 47 C.F.R. §§ 54.405 and 54.411(a)

25 ¹³ See Application, Pages 8 -9 and Response to Staff Data Request STF 1.43. Plan Option 1 offers 250 voice minutes and
26 250 text messages per month at no charge to the Lifeline customer. Plan Option 2 offers 500 voice minutes and 500 text
27 message for \$10.70 per month to Lifeline customers. In addition, Lifeline eligible customers are allowed to apply the
Company's Lifeline discount of \$9.25 to any of the following plans offered to non-Lifeline customers: a 30-day plan of
28 Unlimited Voice/Text and 1 GB Data regularly priced at \$49.95, a 30-day plan of 1500 voice minutes and 1500 text
messages regularly priced at \$29.95, a 30-day of 250 voice minutes and 1000 text messages regularly priced at \$19.95 or a
30-day plan of 4000 combined voice minutes and text messages regularly priced at \$34.25.

¹⁴ See Application, Pages 9-10.

1 12. As indicated above, the FCC granted ABATC forbearance from the own-facilities
2 requirement that it provide service using its own facilities or a combination of its own facilities and
3 resale of another carrier's service and also any criteria related to facilities build out plans. ABATC
4 would be a Lifeline-only ETC, eligible only for Lifeline support and must meet all the other criteria
5 required of ETCs.

6 *A. Offering the Services Designated For Support*

7 13. 47 C.F.R. § 54.101, sets forth the services that a carrier must offer in order to receive
8 Federal universal service fund support. The services and ABATC's response to the provision of each
9 service are as follows:

- 10 (a) Voice grade access to the Public Switched Network. ABATC states¹⁵ that it
11 provides voice grade access to the public switched telephone network through
12 the purchase of wholesale CMRS services from T-Mobile USA, and Sprint.
- 13 (b) Local usage. ABATC states¹⁶ it will provide Lifeline customers with minutes of
14 use for local service at no additional charge to customers, as required by the
15 FCC.
- 16 (c) Access to emergency services. "An ETC must provide its customers with
17 access to 911 and E911 emergency services. ABATC states¹⁷ that all of its
18 customers will have access to emergency calling services and that 911 and
19 E911 access will be available from ABATC's handsets even if the account
20 associated with the handset has no minutes remaining.
- 21 (d) Toll Limitation for Qualifying Low-Income Consumers. "ETCs must provide
22 toll limitation services to qualifying low-income customers, unless their Lifeline
23 offering does not distinguish between the pricing of toll and non-toll calls.
24 ABATC's wireless calling plans do not distinguish between non-toll (i.e., local)
25 and toll. ABATC's prepaid plans include a specific number of minutes that
26 cannot be exceeded. Therefore, customers cannot incur any charges for
27 excessive toll calling or be disconnected for non-payment

28 14. In its Application, ABATC states¹⁸ that it has the ability to provide all of the supported
services and functionalities required in the proposed ETC designated service area to all subscribers
taking service under its Lifeline plan through resale of wireless services with its underlying wireless

¹⁵ Application, Pages 7 and email clarification dated November 12, 2015.

¹⁶ Application, Pages 7-10 and email clarification dated November 12, 2015.

¹⁷ Application, Pages 10-11.

¹⁸ Application, Pages 6-7.

1 carriers. Based on the above information and explanations, Staff believes that ABATC meets this
2 ETC designation criteria.

3 B. *Advertising of Supported Services*

4 15. 47 U.S.C. § 214(e)(1)(B) requires a common carrier designated as an eligible
5 telecommunications carrier to advertise the availability of such services and the corresponding charges
6 using media of general distribution. ABATC states¹⁹ it will advertise the availability of its supported
7 services and the corresponding rates and charges in a manner designed to inform the general public.
8 ABATC advertises in media of general distribution, which includes print, media, web, and kiosks and
9 advertising will occur principally through direct sales, kiosk and table cover marketing campaigns, and
10 web lead generation, with ad words directing potential customers to ABATC's American Assistance
11 website media channels.²⁰ Advertisements will be in both English and Spanish. ABATC submitted
12 examples of prior relevant advertisements to Staff. In addition, ABATC submitted an example of its
13 English version advertisement in its RCP to the FCC.²¹

14 16. Based on the information above and ABATC's advertising materials provided to Staff,
15 Staff concludes that ABATC will advertise the availability of its supported services and the
16 corresponding charges using media of general distribution as required by 47 U.S.C. § 214(e)(1)(B).
17 Staff believes that ABATC meets this ETC designation criteria.

18 C. *Additional ETC Requirements*

19 17. In addition to the requirements listed above, the FCC adopted, in the *Lifeline Reform*
20 *Order*, comprehensive reforms to the low-income program to revise and modernize the Lifeline service
21 requirements and implement measures to address fraud, waste, and abuse within the system. Below are
22 the additional requirements and ABATC's response to each requirement.

23 C.1 A Commitment and Ability to Provide Supported Services

24 18. In 47 C.F.R. § 54.202(a)(1)(i) and (ii), the FCC required the applicant to:

- 25 (i) Certify that it will comply with the service requirements applicable to the
26 support that it receives; and

27 ¹⁹ Application, Page 12.

28 ²⁰ Response to Staff Data Request STF 1.32, 1.33 and 1.34.

²¹ See Exhibit C of RCP filed with Application.

- 1 (ii) Submit a five-year plan that describes with specificity proposed improvements
2 or upgrades to the applicant's network throughout its proposed service area.
3 Each applicant shall estimate the area and population that will be served as a
4 result of the improvements. Except, a common carrier seeking designation as
5 an eligible telecommunications carrier in order to provide supported services
6 only under subpart E of this part does not need to submit such a five-year
7 plan.²²

6 19. ABATC certifies²³ that it will comply with the service requirements applicable to the
7 low-income support it receives as a result of designation as an ETC for the purposes of receiving
8 Lifeline. The requirement directing submissions of a formal network improvement plan under 47
9 C.F.R. § 54.202(a)(1)(ii) demonstrating how universal service funds will be used to improve coverage,
10 signal strength, or capacity that would not otherwise occur absent the receipt of high-cost support,
11 does not apply to this Application because ABATC is seeking only to provide supported services
12 under subpart E of this part, i.e. Lifeline only, and the FCC waived the facilities-based requirements
13 for ABATC.

14 20. Based on the above information, Staff believes that ABATC meets this ETC
15 designation criteria.

16 C.2 Remain Functional in Emergency Situations

17 21. In 47 C.F.R. § 54.202(a)(2), the FCC outlines the requirement that an ETC applicant
18 demonstrate its ability to remain functional in emergency situations. Specifically, "an applicant must
19 demonstrate that it has a reasonable amount of back-up power to ensure functionality without an
20 external power source, is able to reroute traffic around damaged facilities, and is capable of managing
21 traffic spikes resulting from emergency situations."²⁴

22 22. To demonstrate its ability to remain functional in emergency situations, ABATC
23 states²⁵ it will utilize the extensive and well established Sprint and T-Mobile networks and facilities to
24 provide ABATC's mobile services and it is ABATC's understanding that the Sprint and T-Mobile
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26 ²² *Lifeline Reform Order*, ¶ 386.

27 ²³ See Application, Page 13.

28 ²⁴ *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 05-46* (rel. March 17, 2005) ("*ETC Minimum Requirements Report and Order*"), ¶ 25.

²⁵ Application, Page 13.

1 networks are capable of managing traffic spikes that may occur during emergency situations and can
2 reroute traffic in the event of damaged facilities. In addition, ABATC also understands that each
3 carrier has sufficient back-up power to ensure functionality if its external power supply is unavailable
4 and that both companies have repeatedly certified to the FCC that their networks function in
5 emergency situations.²⁶ Sprint and T-Mobile will provide the same functionality to ABATC and its
6 customers as these carriers provide to themselves and their own customers. Therefore, through its
7 underlying carriers, ABATC states it has the ability to remain functional in emergency situations.

8 23. Based on the above information, Staff concludes that ABATC has demonstrated its
9 ability to remain functional in emergency situations by maintaining a reasonable amount of back-up
10 power. Staff believes that ABATC meets this ETC designation criteria.

11 C.3 Satisfy Consumer Protection and Service Quality Standards

12 24. In 47 C.F.R. § 54.202(a)(3), the FCC requires an ETC applicant to demonstrate its
13 commitment to meeting consumer protection and service quality standards in its application.²⁷ The
14 sufficiency of other commitments will be considered on a case-by-case basis.

15 25. To demonstrate its ability to satisfy consumer protection and service quality standards,
16 ABATC states²⁸ it commits to comply with the Wireless Association's, originally known as the Cellular
17 Telephone Industries Association's ("CTIA's") Consumer Code to ensure that the Company offers its
18 subscribers the highest level of protection and quality service.

19 26. Based on the above information, Staff believes that ABATC meets this ETC
20 designation criteria.

21 C.4 Lifeline-Only ETC Applicants – Financial and Technical Capability

22 27. In 47 C.F.R. § 54.202(a)(4), the FCC requires a Lifeline-only ETC applicant to
23 demonstrate that it is financially and technically capable of providing the Lifeline service in
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27 ²⁶ See, e.g., *Sprint Nextel Corporation Verified Filing in Compliance with 47 C.F. R. § 54.209*, CC Docket No. 96-45, at 6 (filed
Sept. 30, 2011); *In the Matter of Telecommunications Carriers Eligible for Universal Service Support, Petition of T-Mobile USA, Inc. for
Designation as a Low-Income Eligible Telecommunications Carrier, et al.*, WC Docket No. 09-197, at 20 (released Aug. 16, 2012).

28 ²⁷ ETC Minimum Requirements Report and Order, ¶ 28.

²⁸ Application, Page 14.

1 compliance with subpart E of this part. In the *Lifeline Reform Order*²⁹ the FCC provides guidance on
2 specific information to be considered when determining if an applicant meets this requirement:

3 “...Among the relevant considerations for such a showing would be whether the
4 applicant previously offered services to non-Lifeline customers, how long its has been in
5 business, whether the applicant intends to rely exclusively on USF distributions to
6 operate, whether the applicant receives or will receive revenue from other sources, and
7 whether it has been subject to enforcement action or ETC revocation proceedings in any
8 state.”

7 28. To demonstrate that ABATC is financially and technically capable of providing
8 Lifeline service, ABATC states³⁰ its management has more than 50 years of experience in the
9 telecommunications industry and it receives revenue from a number of sources which are completely
10 independent from the revenue it will receive in the form of Lifeline reimbursements. ABATC further
11 states its revenue stream includes income from the sale of non-lifeline prepaid and postpaid
12 telecommunications services to customers in Illinois, Indiana, Kentucky, Michigan, Ohio, New York,
13 Pennsylvania and Wisconsin. In addition, ABATC states it has provided non-Lifeline prepaid
14 domestic telecommunications since 2004 and has a substantial non-Lifeline customer base and
15 receives revenues from these non-Lifeline retail offerings. Consequently, ABATC states it will not be
16 relying exclusively on Lifeline reimbursement for its operating revenues. Finally, ABATC states it has
17 not been subject to ETC enforcement sanctions or revocation proceedings in any state.

18 29. Having reviewed ABATC’s financial statements and based on the above information,
19 Staff believes that ABATC meets this ETC designation criteria.

20 C.5 Lifeline-Only ETC Applicants – Terms and Conditions of Lifeline Service Plans

21 30. In 47 C.F.R. § 54.202(a)(5), the FCC requires an ETC applicant to submit information
22 describing the terms and conditions of any voice telephony service plans offered to Lifeline
23 subscribers, including details on the number of minutes provided as part of the plan, additional
24 charges, if any, for toll calls, and rates for each such plan. To the extent the ETC offers plans to
25 Lifeline subscribers that are generally available to the public, it may provide summary information
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28 ²⁹ See *Lifeline Reform Order*, ¶388.

³⁰ See Application, Pages 14-15, RCP, Pages 18-19 and Response to Staff Data Request STF 1.10.

1 regarding such plans, such as a link to a public website outlining the terms and conditions of such
2 plans.

3 31. ABATC provided Staff with its informational tariff³¹ in which it describes the calling
4 plans for Lifeline subscribers, including the number of free minutes in each calling plan, along with
5 the terms and conditions of Lifeline service as provided by ABATC. Based on the information
6 contained in ABATC's informational tariff, Staff believes that ABATC meets this ETC designation
7 criteria.

8 *D. Steps to Limit Fraud, Waste and Abuse of the FUSF*

9 32. In the *Lifeline Reform Order* the FCC adopted various new measures and revised or
10 eliminated other existing measures in order to limit fraud, waste and abuse of the FUSF. These
11 measures include establishing uniform eligibility criteria to qualify for Lifeline services, clarifying the
12 restriction of one Lifeline telephone allowed per household, initial certification and annual re-
13 certification of consumer eligibility, establishing a national lifeline accountability database to ensure
14 and enforce the one-per-household requirement, total elimination of toll limitation support for
15 wireless carriers and a tapered elimination of toll limitation support for landline ETCs, elimination of
16 the Link Up subsidy except on federally-recognized tribal lands and establishing additional provisions
17 for Universal Service Administrative Company ("USAC") audits.

18 33. In its Application³² and RCP, ABATC outlines the steps it will take to limit fraud,
19 waste and abuse of the FUSF and to comply with all applicable Lifeline requirements and implement
20 measures to prevent fraud, waste, and abuse.

21 *E. Public Interest Determination*

22 34. Under Section 214 of the Act, the FCC and state commissions must determine that an
23 ETC designation is consistent with the public interest, convenience and necessity for rural areas. They
24 also must consider whether an ETC designation serves the public interest consistent with Section 254
25 of the Act. Congress did not establish specific criteria to be applied under the public interest tests in
26 Sections 214 or 254. The public interest benefits of a particular ETC designation must be analyzed in

27 _____
28 ³¹ Response to Staff Data Request STF 1.43.

³² See Application, Pages 15-16.

1 a manner that is consistent with the purposes of the Act itself, including the fundamental goals of
2 preserving and advancing universal service, ensuring the availability of quality telecommunications
3 services at just, reasonable, and affordable rates, and promoting the deployment of advanced
4 telecommunications and information services to all regions of the nation, including rural and high-cost
5 areas.³³ Accordingly, before designating a carrier as an ETC, the Commission must make an
6 affirmative determination that such designation is in the public interest, regardless of whether the
7 applicant seeks designation in an area served by a rural or non-rural carrier.

8 35. ABATC states that by designating it as a wireless ETC in Arizona, it will serve the
9 public interest and the needs of low-income customers in Arizona by increasing customer choice in
10 the areas it serves. The public interest benefits associated with ABATC's wireless service include
11 larger local calling areas (as compared to traditional wireline carriers), the convenience and personal
12 security afforded by mobile telephone service, the opportunity for customers to receive a high-value
13 wireless plan and emergency services in accordance with FCC Rules. Additionally, ETC status will
14 promote universal service by allowing ABATC to offer wireless service to many low-income
15 customers who may not be able to otherwise have service. ABATC's Lifeline calling plans are
16 designed to provide service to Lifeline consumers who, due to credit or deposit requirements, may not
17 be able to obtain telephone service from more traditional wireline and wireless service providers.

18 *F. Designated Service Area*

19 36. The Commission must establish a geographic area for the purpose of determining
20 universal service obligations and support mechanisms for each designated ETC. *See* 47 U.S.C. §
21 214(e)(2); 47 C.F.R. § 54.201(b). ABATC requests that the Commission designate it as an ETC for
22 service areas in Arizona. Through resale of wireless service provided by T-Mobile and Sprint in
23 Arizona, ABATC will provide Lifeline service in many wire centers in the State of Arizona.

24 37. There are a number of wire centers that encompass both tribal lands and non-tribal
25 lands. Some of the tribal lands are served by tribally-owned telephone companies and some of the
26 tribal lands are served by non-tribally owned telephone companies. For those wire centers that

27
28 ³³ *ETC Minimum Requirements Report and Order*, ¶ 40.

1 encompass tribal lands, ABATC requested to serve the non-tribal areas of each wire center and to
2 serve tribal lands within the service areas of Commission regulated telephone companies and
3 cooperatives only after receiving any and all necessary licenses or other forms of approval that might
4 be required by any Tribe and filing a copy of such licenses or other form of approval with the
5 Commission, with a copy to ALECA's undersigned counsel. Attachment 1 of the Recommended
6 Opinion and Order contains the list of wire centers to be served by ABATC.

7 **INTERVENOR**

8 *A. Arizona Local Exchange Carriers Association*

9 38. The ALECA is an association of telephone companies and member-owned
10 cooperatives providing local exchange telecommunications services to customers in rural, high cost
11 areas of Arizona. All of ALECA's members are "rural telephone companies" as defined by the Act.
12 ALECA represents telephone companies and cooperatives that are regulated by the Commission as
13 well as Tribally-owned telephone companies which are not regulated by the Commission.

14 *B. Joint Stipulation*

15 39. On March 16, 2015, ALECA and ABATC filed a Stipulation in the docket. In the
16 Stipulation, to address the potential concerns expressed by ALECA, ABATC agreed not to provide
17 Lifeline service to eligible residents residing on Federally-recognized Tribal Lands in Arizona until
18 ABATC obtained any and all necessary licenses or other forms of approval that might be required by
19 any Tribe and file a copy of such licenses or other form of approval with the Commission in this
20 docket and a copy to ALECA's counsel. In addition, ABATC agreed that its Lifeline enrollment
21 application for Arizona will require an applicant to provide a street address and include a provision
22 that requires an applicant to self-certify under penalty of perjury that they do not reside on Federally-
23 Recognized Tribal Lands or to identify the Federally-Recognized Tribe on the lands of which he or
24 she resides.

25 40. Staff understands that the only Federally-Recognized Tribal Lands that are included in
26 the Joint Stipulation are those served by Commission-regulated telephone companies and cooperatives
27
28

1 and for which ABATC has obtained any and all necessary licenses or other forms of approval that
2 might be required by any Tribe.³⁴

3 STAFF RECOMMENDATIONS

4 41. In addition to the conditions set forth by the FCC, Staff recommends ABATC's
5 Application for designation as an ETC be granted subject to the following conditions:

- 6 a. ABATC shall file a tariff, in this docket through Docket Control, setting forth
7 the rates, terms and conditions for its Lifeline service within thirty (30) days of
8 a Commission Order in this matter;
- 9 b. ABATC shall notify the Commission of any future changes, through Docket
10 Control, to its rates, terms and/or conditions regarding its Lifeline offerings
11 and file such changes in its tariff and amend its tariff in compliance with A.R.S.
12 § 40-367;
- 13 c. ABATC shall make available Lifeline services to qualifying low-income
14 applicants in its ETC service area no later than ninety (90) days after a
15 Commission decision in this matter and shall concurrently notify the
16 Commission, by making a filing in Docket Control, in this docket, of the
17 commencement date for such services;
- 18 d. ABATC shall apprise the Commission of any customer complaints that may
19 arise from its ETC service offerings by making a filing in Docket Control in
20 this docket;
- 21 e. ABATC shall provide a regulatory contact to the Commission by making a
22 filing in Docket Control in this docket within thirty (30) days of a Commission
23 decision in this matter;
- 24 f. In the event that ABATC requests to relinquish its ETC status and no longer
25 provide Lifeline services, it must provide notice to both the Commission and
26 its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107
27 and any other requirements under Federal law;
- 28 g. ABATC shall submit in Docket Control an annual report by April 15th of each
year, beginning April 15, 2017, that contains its total number of Lifeline
subscribers and the total amount of FUSF support received as of December 31
of the previous year and include an affidavit stating that the Lifeline discounts
or the equivalent are equal to the amount of total FUSF support received per
line. The annual filing shall be submitted as a compliance item in this docket;
- h. In the event of a Transfer of Control that involves ABATC, a new ETC
petition shall be filed with the Commission. This will ensure ETCs undergoing

³⁴ In order to provide Lifeline services on Federally-Recognized Tribal Lands served by Tribally-owned telephone companies, ABATC would need to petition the FCC for ETC designation in order to receive FUSF reimbursement.

1 reorganization remain financially viable and technically able to provide the
2 supported services throughout the designated service areas as originally
approved by the Commission;

- 3 i. ABATC shall not expand its Lifeline service beyond the designated service area
4 specified in this Application without acquiring ETC designation from the
Commission to serve the additional area; and
- 5 j. ABATC shall not provide Lifeline service to eligible residents residing on
6 Federally-Recognized Tribal Lands in Arizona, served by Commission
7 regulated telephone companies and cooperatives, until after ABATC has
8 obtained any and all necessary licenses or other forms of approval that might
9 be required by any Tribe and filed a copy of such licenses or other form of
approval with the Commission in this docket, with a copy to ALECA's
counsel.

10 CONCLUSIONS OF LAW

11 1. American Broadband and Telecommunications Company is a telecommunications
12 company as defined in A.R.S. § 40-201(46) and is a "telecommunications carrier" as defined in 47
13 U.S.C. § 153(51). ABATC is also a reseller of Commercial Mobile Radio Service as defined in 47
14 U.S.C. § 20.3 and A.A.C. R14-2-1201(8).

15 2. The Commission has jurisdiction over the subject matter of the Application.

16 3. Under 47 U.S.C. § 214(e)(1), a common carrier that is designated as an Eligible
17 Telecommunications Carrier must, throughout its designated service area, offer the services that are
18 supported by the Federal Universal Service Support mechanisms either by using its own facilities or a
19 combination of its own facilities and resale of another carrier's services. The carrier must also
20 advertise the availability of such services and the rates for the services using media of general
21 distribution.

22 4. Under 47 U.S.C. § 214(e)(2), the Commission must establish the geographic area for
23 the purposes of determining universal service obligations and support mechanisms. ABATC's
24 Application applies to the service area consisting of each rate center as listed in Attachment 1.

25 5. ABATC meets the requirements for ETC designation under 47 U.S.C. § 214 and
26 C.F.R. § 54.201 *et seq.*, subject to ABATC's compliance with the conditions set forth in Finding of Fact
27 No. 41 herein.

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ORDER

IT IS THEREFORE ORDERED that the Application of American Broadband and Telecommunications Company for designation as an Eligible Telecommunications Carrier pursuant to U.S.C. § 214(e)(1) for the purpose of receiving federal universal service support in Arizona, for the designated service area set forth in Attachment 1 attached hereto and incorporated herein by reference, be and hereby is approved, subject to American Broadband and Telecommunications Company's compliance with the conditions set forth in Finding of Fact No. 41 above.

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1 IT IS FURTHER ORDERED that if American Broadband and Telecommunications
2 Company does not comply with the requirements of Finding of Fact No. 41, its designation as an
3 ETC may be revoked after due process.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.
5

6 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**
7

8 _____
CHAIRMAN

COMMISSIONER

9
10
11 _____
COMMISSIONER

COMMISSIONER

COMMISSIONER

12
13 IN WITNESS WHEREOF, I, JODI JERICH, Executive
14 Director of the Arizona Corporation Commission, have
15 hereunto, set my hand and caused the official seal of this
16 Commission to be affixed at the Capitol, in the City of
17 Phoenix, this _____ day of _____, 2015.

18 _____
JODI JERICH
19 EXECUTIVE DIRECTOR

20 DISSENT: _____

21
22 DISSENT: _____

23 TMB:LLM:red/MAS
24
25
26
27
28

1 SERVICE LIST FOR: American Broadband and Telecommunications Company
2 DOCKET NO. T-20924A-15-0068

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Chief Administrative Law Judge, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

CARRIER NAME	CLLI	SWITCH NAME
QWEST CORPORATION	AGFIAZSRDS0	SUNRISE
QWEST CORPORATION	AZCYAZ03RS1	ARIZONA CITY
QWEST CORPORATION	BCKYAZMADS0	BUCKEYE
QWEST CORPORATION	BISBAZMARS1	BISBEE
QWEST CORPORATION	BLCNAZMARS1	BLACK CANYON
QWEST CORPORATION	BNSNAZMADS0	BENSON
QWEST CORPORATION	BNSNAZSDDS0	BENSON SAINT DAVID
QWEST CORPORATION	BRDSAZMADS0	BEARDSLEY
QWEST CORPORATION	CHNDAZMADS0	CHANDLER MAIN
QWEST CORPORATION	CHNDAZSODS0	CHANDLER SOUTH
QWEST CORPORATION	CHNDAZWEDS0	CHANDLER WEST
QWEST CORPORATION	CHVYAZMADS0	CHINO VALLEY
QWEST CORPORATION	CLDGAZMARS1	COOLIDGE
QWEST CORPORATION	CMVRAZMARS1	CAMP VERDE
QWEST CORPORATION	CMVRAZRRRS1	RIMROCK
QWEST CORPORATION	CRCYAZMARS1	CIRCLE CITY
QWEST CORPORATION	CRNDAZMADS1	CORONADO
QWEST CORPORATION	CSGRAZMADS0	CASA GRANDE
QWEST CORPORATION	CTWDAZMADS0	COTTONWOOD-MAIN
QWEST CORPORATION	CTWDAZSORS1	COTTONWOOD-SOUTH
QWEST CORPORATION	CVCKAZMADS0	CAVE CREEK
QWEST CORPORATION	DDVLAZNMRS1	DUDLEYVILLE
QWEST CORPORATION	DGLSAZMARS1	DOUGLAS
QWEST CORPORATION	DRVYAZNODS0	DEER VALLEY NORTH
QWEST CORPORATION	ELOYAZ01RS1	ELOY
QWEST CORPORATION	FLGSAZEADS0	FLAGSTAFF EAST
QWEST CORPORATION	FLGSAZMADS0	FLAGSTAFF MAIN
QWEST CORPORATION	FLGSAZSORS1	FLAGSTAFF SOUTH
QWEST CORPORATION	FLRNAZMARS1	FLORENCE
QWEST CORPORATION	FTMDAZMADS0	FORT MCDOWELL
QWEST CORPORATION	FTMDAZNORS1	RIO VERDE
QWEST CORPORATION	GDYRAZCWDS0	COLDWATER
QWEST CORPORATION	GLBNAZMARS1	GILA BEND
QWEST CORPORATION	GLDLAZMADS0	GLENDALE MAIN
QWEST CORPORATION	GLOBAZMARS1	GLOBE
QWEST CORPORATION	GNVYAZMADS0	GREEN VALLEY
QWEST CORPORATION	GRCNAZMARS1	GRAND CANYON
QWEST CORPORATION	HGLYAZMADS1	HIGLEY
QWEST CORPORATION	HGLYAZQCDS2	QUEEN CREEK
QWEST CORPORATION	HMBLAZMARS1	HUMBOLDT
QWEST CORPORATION	HYDNAZMARS1	HAYDEN
QWEST CORPORATION	JSCYAZMARS1	JOSEPH CITY
QWEST CORPORATION	KRNYAZMARS1	KEARNY
QWEST CORPORATION	LTPKAZMADS0	LITCHFIELD PARK
QWEST CORPORATION	MARNAZ02RS1	MARANA WEST
QWEST CORPORATION	MARNAZMARS1	MARANA
QWEST CORPORATION	MAYRAZMARS1	MAYER
QWEST CORPORATION	MESAAZGIDS0	GILBERT
QWEST CORPORATION	MESAAZMADS0	MESA
QWEST CORPORATION	MIAMAZMARS1	MIAMI
QWEST CORPORATION	MMTHAZMARS1	MAMMOTH
QWEST CORPORATION	MRCPAZMADS0	MARICOPA
QWEST CORPORATION	MSPKAZMADS0	MUNDS PARK
QWEST CORPORATION	NGLSAZMARS1	NOGALES

CARRIER NAME	CLLI	SWITCH NAME
QWEST CORPORATION	NGLSAZMWS0	NOGALES MIDWAY
QWEST CORPORATION	NWRVAZMADS0	NEW RIVER
QWEST CORPORATION	ORCLAZMARS1	ORACLE
QWEST CORPORATION	PAGEAZMADS0	PAGE
QWEST CORPORATION	PHNXAZ81DS0	PHOENIX-FOOTHILLS
QWEST CORPORATION	PHNXAZBWDS0	PHOENIX-BETHANY WEST
QWEST CORPORATION	PHNXAZCADS0	PHOENIX-CACTUS
QWEST CORPORATION	PHNXAZEADS0	PHOENIX-EAST
QWEST CORPORATION	PHNXAZGRDS0	PHOENIX-GREENWAY
QWEST CORPORATION	PHNXAZLVDS0	PHOENIX-LAVEEN
QWEST CORPORATION	PHNXAZMADS1	PHOENIX-MAIN
QWEST CORPORATION	PHNXAZMRDS0	PHOENIX-MID RIVERS
QWEST CORPORATION	PHNXAZMYDS0	PHNX-MARYVALE
QWEST CORPORATION	PHNXAZNEDS0	PHOENIX-NORTHEAST
QWEST CORPORATION	PHNXAZNODS1	PHOENIX-NORTH
QWEST CORPORATION	PHNXAZNWDS0	PHOENIX-NORTHWEST
QWEST CORPORATION	PHNXAZPPDS0	PHOENIX-PECOS
QWEST CORPORATION	PHNXAZPRDS0	PHNX PEORIA
QWEST CORPORATION	PHNXAZSEDS0	PHNX SOUTHEAST
QWEST CORPORATION	PHNXAZWEDS0	PHOENIX WEST
QWEST CORPORATION	PIMAAZMARS1	PIMA
QWEST CORPORATION	PINEAZMARS1	PINE
QWEST CORPORATION	PLMNAZMARS1	PALOMINAS
QWEST CORPORATION	PRSCAZEARS2	PRESCOTT EAST
QWEST CORPORATION	PRSCAZMADS0	PRESCOTT MAIN
QWEST CORPORATION	PRVYAZPPDS0	PINNACLE PEAK
QWEST CORPORATION	PTGNAZELRS1	PATAGONIA ELGIN
QWEST CORPORATION	PTGNAZMARS1	PATAGONIA
QWEST CORPORATION	PYSNAZMADS0	PAYSON
QWEST CORPORATION	SCDLAZMADS0	SCOTTSDALE MAIN
QWEST CORPORATION	SCDLAZSHDS0	SHEA
QWEST CORPORATION	SCDLAZTHDS0	THUNDERBIRD
QWEST CORPORATION	SEDNAZMADS0	SEDONA
QWEST CORPORATION	SEDNAZSORS3	SEDONA SOUTH
QWEST CORPORATION	SFFRAZMADS0	SAFFORD
QWEST CORPORATION	SMTNAZMARS1	SOMERTON
QWEST CORPORATION	SNMNAZMADS0	SAN MANUEL
QWEST CORPORATION	SPRRAZMARS1	SUPERIOR
QWEST CORPORATION	SPRSAZEADS0	SUPERSTITION EAST
QWEST CORPORATION	SPRSAZMADS0	SUPERSTITION MAIN
QWEST CORPORATION	SPRSAZWEDS0	SUPERSTITION WEST
QWEST CORPORATION	SRVSAZMADS0	SIERRA VISTA MAIN
QWEST CORPORATION	SRVSAZNORS1	SIERRA VISTA NO
QWEST CORPORATION	SRVSAZSODS0	SIERRA VISTA SO
QWEST CORPORATION	TCSNAZCADS0	CATALINA
QWEST CORPORATION	TCSNAZCODS0	CORTARO
QWEST CORPORATION	TCSNAZCRDS0	TCSN CRAYCROFT
QWEST CORPORATION	TCSNAZEADS0	TUCSON EAST
QWEST CORPORATION	TCSNAZFWDS0	FLOWING WELLS
QWEST CORPORATION	TCSNAZMADS1	TUCSON MAIN
QWEST CORPORATION	TCSNAZMLRS2	MOUNT LEMMON
QWEST CORPORATION	TCSNAZNODS0	TUCSON NORTH
QWEST CORPORATION	TCSNAZRNDS0	RINCON
QWEST CORPORATION	TCSNAZSEDS0	TUCSON SOUTHEAST

CARRIER NAME	CLLI	SWITCH NAME
QWEST CORPORATION	TCSNAZSODS0	TCSN SOUTH
QWEST CORPORATION	TCSNAZSWDS0	TUCSON SOUTHWEST
QWEST CORPORATION	TCSNAZTVDS0	TANQUE VERDE
QWEST CORPORATION	TCSNAZWERS1	TUCSON WEST
QWEST CORPORATION	TEMPAZMADS0	TEMPE MAIN
QWEST CORPORATION	TEMPAZMCDS0	MCCLINTOCK
QWEST CORPORATION	TLSNAZMADS0	TOLLESON
QWEST CORPORATION	TMBSAZMARS1	TOMBSTONE
QWEST CORPORATION	TNCKAZMARS1	TONTO CREEK
QWEST CORPORATION	TUBCAZMARS1	TUBAC
QWEST CORPORATION	VAILAZNORS1	VAIL NORTH
QWEST CORPORATION	WCBGAZMARS1	WICKENBURG
QWEST CORPORATION	WHTKAZMARS2	WHITE TANKS
QWEST CORPORATION	WHTLAZMADS0	WHITLOW
QWEST CORPORATION	WLCXAZMARS1	WILLCOX
QWEST CORPORATION	WLMSAZMARS1	WILLIAMS
QWEST CORPORATION	WLTNAZMARS1	WELLTON
QWEST CORPORATION	WNBGAZOIRS1	WINTERSBURG
QWEST CORPORATION	WNSLAZMADS1	WINSLOW
QWEST CORPORATION	YRNLAZMARS1	YARNELL
QWEST CORPORATION	YUMAAZFTDS1	YUMA FORTUNA
QWEST CORPORATION	YUMAAZMADS0	YUMA
QWEST CORPORATION	YUMAAZSEDS0	YUMA SOUTHEAST