

ORIGINAL

# OPEN MEETING



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## MEMORANDUM RECEIVED

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
**DOCKETED**

2016 OCT 12 A 9:43

OCT 12 2016

TO: THE COMMISSION  
FROM: Utilities Division  
DATE: October 12, 2016  
RE: IN THE MATTER OF THE APPLICATION OF I-WIRELESS, LLC TO  
EXPAND ITS ELIGIBLE TELECOMMUNICATIONS CARRIER SERVICE  
AREA. (DOCKET NO. T-20538A-16-0324)

DOCKETED BY	PA.
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### 1. INTRODUCTION

Enclosed are the Commission Staff's memorandum and proposed order for the application of i-wireless, LLC to expand its eligible telecommunications carrier service area (Docket No. T-20538A-16-0324). This is only a Staff recommendation to the Commission; it has not yet become an order of the Commission. The Commission can decide to accept, amend or reject Staff's proposed order.

You may file comments to the recommendation(s) of the proposed order by filing an original and thirteen (13) copies of the comments with the Commission's Docket Control Center at 1200 W. Washington St., Phoenix, AZ 85007 by 4:00 p.m. on or before **October 24, 2016**.

This matter may be scheduled for Commission deliberation at its Open Meetings scheduled **October 27, 2016, at 10:00 a.m.** and **October 28, 2016, at 10:00 a.m.**

If you have any questions about this matter, please contact Lori Morrison of our Staff at (602) 542-2179, or Thomas Broderick, Director, at (602) 542-7270.

### 2. BACKGROUND

On September 16, 2016, i-wireless, LLC ("i-wireless" or the "Company") filed an application requesting to expand its Eligible Telecommunications Carrier ("ETC") designated service area in Arizona. The Arizona Corporation Commission ("ACC" or "Commission") designated i-wireless a wireless, Lifeline-only ETC in Decision No. 72666, dated November 17, 2011. The Company has operated pursuant to this designation for over four years, offering wireless Lifeline services throughout its designated service area. Recently, Sprint Corporation, Virgin Mobile USA, L.P. and i-wireless reached an agreement to combine their resources in a Lifeline wireless services partnership that will respond to the FCC's vision for a modernized Lifeline program.<sup>1</sup> The venture will be launched with a transaction involving (i) the transfer of majority control of i-wireless to Sprint and (ii) the transfer of Assurance Wireless Lifeline customer accounts, currently served by Virgin Mobile to i-wireless. At this time, a significant number of Assurance Wireless customers reside in Arizona locations for which

<sup>1</sup> The parties to this transaction have submitted a notice to the Commission providing details of the transaction and its anticipated benefits. See, *Sprint Corporation, Virgin Mobile USA, L.P. (Assurance Wireless) and i-wireless, LLC Notification Regarding Their Proposed Wireless Lifeline Services Partnership and Related Transaction*, Docket No. T-20538A-10-0332, filed Sept. 2, 2016.

i-wireless is not designated to provide Lifeline services. In order to serve these customers, i-wireless must expand its service area.

## DESIGNATED SERVICE AREA

i-wireless' current ETC service area, as originally designated, consists of the 406 zip codes in the State of Arizona as approved in Decision No. 72666, dated November 17, 2011. In this Application, i-wireless seeks to expand its ETC designated service area to match the service areas covered by its underlying carriers. Specifically, i-wireless is requesting to expand its designated service area to include an additional 49 zip codes, identified in Attachment 1 of the Proposed Order, to the current zip codes in its current designated service area. For those zip codes that encompass tribal lands, i-wireless requests to serve only the non-tribal areas of the zip code.

Although i-wireless and Virgin Mobile use the same underlying Sprint network to serve Lifeline subscribers in Arizona the designated service areas of i-wireless and Virgin Mobile are not the same. The discrepancy between these service areas arises in significant part because Virgin Mobile's designated service area is defined by wire centers while i-wireless designated service area is defined by zip codes.

Wire center boundaries do not perfectly overlap with zip codes and thus, the designated service areas differ. i-wireless has determined that there are approximately 1,600 Assurance Wireless Lifeline subscribers who currently receive Lifeline services over the Sprint network from Assurance Wireless but who reside outside of i-wireless' current designated service area. Thus, i-wireless requests that the Commission expand its designated service area to add the additional 49 zip codes so all of Assurance Wireless Lifeline's subscribers may be moved to i-wireless' network.

## STAFF ANALYSIS

In Decision No. 72666, dated November 17, 2011, the Commission required that should i-wireless expand its Lifeline service beyond the designated service area specified in this application, i-wireless is required to seek ETC designation from the Commission to serve the additional area.<sup>2</sup> i-wireless currently is authorized to provide Lifeline services in 406 zip codes in Arizona. In this application, i-wireless seeks to add an additional 49 zip codes to its designated service area.

In the course of its review of i-wireless' Application, Staff found the Federal Communication Commission ("FCC") issued i-wireless a *Notice of Apparent Liability for Forfeiture* ("NAL") on November 1, 2013.<sup>3</sup> The NAL alleges that i-wireless willfully violated 47 C.F.R. §§ 54.407, 54.409, and 54.410 by requesting and receiving reimbursement payments from the Universal Service Fund for intra-company duplicate Lifeline enrollments. An intra-company duplicate occurs when a consumer is provided more than one Lifeline service by a single company. The basis for the NAL is Universal Service Administrative Company's ("USAC's") in-depth validation review of a sample of months in 2012 and

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<sup>2</sup> See Decision No. 72666, Page 15, lines 12-16.

<sup>3</sup> FCC 13-148 (November 1, 2013).

2013 for eight states to identify intra-company and inter-company Lifeline service duplicates.<sup>4</sup> Arizona was not among the eight states reviewed.<sup>5</sup> Of the subscribers included in the eight-state review, USAC claimed to have identified 1,684 intra-company duplicates during the period from October 2012 through April 2013. i-wireless states that even if the alleged duplicates actually were duplicates (which i-wireless disputes), i-wireless was 99.7 percent effective at identifying and preventing duplicate enrollments. Stated differently, only 0.26 percent of the total number of customers were alleged to be intra-company duplicates. This miniscule alleged error rate is well within the 1.5 percent range deemed by Congress to be acceptable for federal benefit programs of this kind.<sup>6</sup>

Since the time the NAL was issued, the National Lifeline Accountability Database ("NLAD") came online on April 3, 2014 and is now used to ensure that only eligible households will receive one federal Lifeline benefit per household from ETCs and intra- and inter-company duplications are eliminated.

i-wireless has denied the allegations in the NAL and has requested that the NAL be cancelled. i-wireless explains that in the nearly three years since the NAL was issued, notwithstanding recurring outreach by the Company to discuss the matter with FCC Staff, the FCC has taken no further action on the NAL. In the meantime, at least seven state commissions have made affirmative decisions to move forward with i-wireless' ETC designation requests, including California after a thorough review of the circumstances and status of the NAL. Each commission has been well aware of the NAL and nevertheless deemed the Company well-qualified to operate as an ETC.<sup>7</sup>

The Consumer Services Section of the Utilities Division reports that there have been no complaints, inquiries, or opinions about i-wireless for the period of January 2013 to September 2016. According to the Corporations Division, i-wireless is in good standing. The Compliance Section reports that i-wireless is in compliance.

## RECOMMENDATION

Staff recommends the application of i-wireless to add 49 zip codes to its current designated service area be approved subject to the following conditions:

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<sup>4</sup> An inter-company duplicate occurs when a consumer is provided Lifeline service by more than one company.

<sup>5</sup> USAC conducted IDV reviews for i-wireless operations in Illinois, Indiana, New York, North Carolina, Ohio, South Carolina, Tennessee and West Virginia.

<sup>6</sup> See Office of Management and Budget, Circular A-123, Appendix C: Requirements for Effective Estimation and Remediation of Improper Payments, 9 (Oct. 2014).

<sup>7</sup> These states are: California, Georgia (expansion), Idaho, Nebraska, Oregon, Pennsylvania and Washington. California, in particular, undertook a detailed review of the allegations. Noting that the FCC "has not adopted a threshold for an acceptable level of duplicates" the Communication's Division Staff concluded that 1.5 percent (derived from the Federal Improper Payments Elimination and Recovery Act of 2010 (IPERA)) would be a reasonable standard and that, measured accordingly, "i-wireless' [] duplicate rate does not rise to the level of a "significant risk" that justifies a denial of their ETC designation request." California Public Utilities Commission Resolution T-17449, pp. 17-18 (Sept. 11, 2014), available at: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M107/K222/107222695.pdf>.

THE COMMISSION

October 12, 2016

Page 4

- a. i-wireless be required to file to include the additional zip codes in its existing ETC tariff within 30 days of the date of the Decision in this matter; and
- b. i-wireless be required to file as a Compliance item a notice with the Commission when the FCC's NAL is resolved.



Thomas M. Broderick  
Director  
Utilities Division

TMB:LLM:nr\RWG

ORIGINATOR: Lori Morrison

THE COMMISSION

October 12, 2016

Page 5

On this 12th day of October, 2016, the foregoing document was filed with Docket Control as a Utilities Division Memorandum & Proposed Order, and copies of the foregoing were mailed on behalf of the Utilities Division to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

Mr. Michael Patten  
SNELL & WILMER, LLP  
One Arizona Center  
400 East Van Buren Street, Suite 1900  
Phoenix, Arizona 85004

Mr. Thomas M. Broderick  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Ms. Janice M. Alward  
Chief Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
[JAlward@azcc.gov](mailto:JAlward@azcc.gov)

**Consented to Service By Email**

By: Nanisha Ross  
Nanisha Ross  
Administrative Support Specialist

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

- DOUG LITTLE  
Chairman
- BOB STUMP  
Commissioner
- BOB BURNS  
Commissioner
- TOM FORESE  
Commissioner
- ANDY TOBIN  
Commissioner

IN THE MATTER OF THE APPLICATION )  
 OF I-WIRELESS, LLC TO EXPAND ITS )  
 ELIGIBLE TELECOMMUNICATIONS )  
 CARRIER SERVICE AREA. )

DOCKET NO. T-20538A-16-0324  
 DECISION NO. \_\_\_\_\_  
ORDER

Open Meeting  
 October 27 and October 28, 2016  
 Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On September 16, 2016, i-wireless, LLC (“i-wireless” or the “Company”) filed an application requesting to expand its Eligible Telecommunications Carrier (“ETC”) designated service area in Arizona. The Arizona Corporation Commission (“ACC” or “Commission”) designated i-wireless a wireless, Lifeline-only ETC in Decision No. 72666, dated November 17, 2011.

2. The Company has operated pursuant to this designation for over four years, offering wireless Lifeline services throughout its designated service area. Recently, Sprint Corporation, Virgin Mobile USA, L.P. and i-wireless reached an agreement to combine their resources in a Lifeline wireless services partnership that will respond to the FCC's vision for a modernized Lifeline program.<sup>1</sup> The venture will be launched with a transaction involving (i) the transfer of majority control of i-

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2 served by Virgin Mobile to i-wireless. At this time, a significant number of Assurance Wireless  
3 customers reside in Arizona locations for which i-wireless is not designated to provide Lifeline  
4 services. In order to serve these customers, i-wireless must expand its service area.

#### 5 **DESIGNATED SERVICE AREA**

6 3. i-wireless' current ETC service area, as originally designated, consists of the 406 zip  
7 codes in the State of Arizona as approved in Decision No. 72666, dated November 17, 2011. In this  
8 Application, i-wireless seeks to expand its ETC designated service area to match the service areas  
9 covered by its underlying carriers. Specifically, i-wireless is requesting to expand its designated service  
10 area to include an additional 49 zip codes, identified in Attachment 1 of this Proposed Order, to the  
11 current zip codes in its current designated service area. For those zip codes that encompass tribal  
12 lands, i-wireless requests to serve only the non-tribal areas of the zip code.

13 4. Although i-wireless and Virgin Mobile use the same underlying Sprint network to serve  
14 Lifeline subscribers in Arizona the designated service areas of i-wireless and Virgin Mobile are not the  
15 same. The discrepancy between these service areas arises in significant part because Virgin Mobile's  
16 designated service area is defined by wire centers while i-wireless designated service area is defined by  
17 zip codes.

18 5. Wire center boundaries do not perfectly overlap with zip codes and thus, the  
19 designated service areas differ. i-wireless has determined that there are approximately 1,600 Assurance  
20 Wireless Lifeline subscribers who currently receive Lifeline services over the Sprint network from  
21 Assurance Wireless but who reside outside of i-wireless' current designated service area. Thus, i-  
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23 codes so all of Assurance Wireless Lifeline's subscribers may be moved to i-wireless' network.

#### 24 **STAFF ANALYSIS**

25 6. In Decision No. 72666, dated November 17, 2011, the Commission required that  
26 should i-wireless expand its Lifeline service beyond the designated service area specified in this  
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1 additional area.<sup>2</sup> I-wireless currently is authorized to provide Lifeline services in 406 zip codes in  
2 Arizona. In this application, i-wireless seeks to add an additional 49 zip codes to its designated service  
3 area.

4 7. In the course of its review of i-wireless' Application, Staff found the Federal  
5 Communication Commission ("FCC") issued i-wireless a *Notice of Apparent Liability for Forfeiture*  
6 ("NAL") on November 1, 2013.<sup>3</sup> The NAL alleges that i-wireless willfully violated 47 C.F.R. §§  
7 54.407, 54.409, and 54.410 by requesting and receiving reimbursement payments from the Universal  
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10 NAL is Universal Service Administrative Company's ("USAC's") in-depth validation review of a  
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12 Lifeline service duplicates.<sup>4</sup> Arizona was not among the eight states reviewed.<sup>5</sup> Of the subscribers  
13 included in the eight-state review, USAC claimed to have identified 1,684 intra-company duplicates  
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15 duplicates actually were duplicates (which i-wireless disputes), i-wireless was 99.7 percent effective at  
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18 well within the 1.5 percent range deemed by Congress to be acceptable for federal benefit programs of  
19 this kind.<sup>6</sup>

20 8. Since the time the NAL was issued, the National Lifeline Accountability Database  
21 ("NLAD") came online on April 3, 2014 and is now used to ensure that only eligible households will  
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23 duplications are eliminated.

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<sup>6</sup> See Office of Management and Budget, Circular A-123, Appendix C: Requirements for Effective Estimation and Remediation of Improper Payments, 9 (Oct. 2014).

1           9.       i-wireless has denied the allegations in the NAL and has requested that the NAL be  
2 cancelled. i-wireless explains that in the nearly three years since the NAL was issued, notwithstanding  
3 recurring outreach by the Company to discuss the matter with FCC Staff, the FCC has taken no  
4 further action on the NAL. In the meantime, at least seven state commissions have made affirmative  
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6 thorough review of the circumstances and status of the NAL. Each commission has been well aware  
7 of the NAL and nevertheless deemed the Company well-qualified to operate as an ETC.<sup>7</sup>

8           10.       The Consumer Services Section of the Utilities Division reports that there have been  
9 no complaints, inquiries, or opinions about i-wireless for the period of January 2013 to September  
10 2016. According to the Corporations Division, i-wireless is in good standing. The Compliance  
11 Section reports that i-wireless is in compliance.

## 12 **RECOMMENDATION**

13           11.       Staff recommends the application of i-wireless, LLC Corporation to add 49 zip codes  
14 to its current designated service area be approved as requested. In addition, Staff recommends that i-  
15 wireless be required to file to include the additional zip codes in its existing ETC tariff within 30 days  
16 of the date of the Decision in this matter.

17           12.       Staff further recommends i-wireless be required to file as a Compliance item a status  
18 update on the FCC's NAL proceeding every six months from the effective date of this Decision, for a  
19 period of two years or until the FCC resolves the matter. If, after two years the FCC has not resolved  
20 the matter, i-wireless may request that the Commission rescind this reporting requirement.

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26 <sup>7</sup> These states are: California, Georgia (expansion), Idaho, Nebraska, Oregon, Pennsylvania and Washington. California, in  
27 particular, undertook a detailed review of the allegations. Noting that the FCC "has not adopted a threshold for an  
28 acceptable level of duplicates" the Communication's Division Staff concluded that 1.5% (derived from the Federal  
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<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M107/K222/107222695.pdf>

CONCLUSIONS OF LAW

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1. i-wireless, LLC is a telecommunications company as defined in A.R.S. § 40-201(46) and is a “telecommunications carrier” as defined in 47 U.S.C. § 153(51). i-wireless, LLC is also a reseller of Commercial Mobile Radio Service as defined in 47 U.S.C. § 20.3 and A.A.C. R14-2-1201(8).

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

3. Under 47 U.S.C. § 214(e)(2), the Commission must establish the geographic area for the purposes of determining universal service obligations and support mechanisms. i-wireless, LLC’s Application requests an expansion to its ETC designated service area to include the new zip codes listed in ROO Attachment 1.

4. The Federal Communication Commission issued i-wireless, LLC a Notice of Apparent Liability for Forfeiture (“NAL”) on November 1, 2013.<sup>8</sup> The NAL alleges that i-wireless, LLC willfully violated 47 C.F.R. §§ 54.407, 54.409, and 54.410 by requesting and receiving reimbursement payments from the Universal Service Fund for intra-company duplicate Lifeline enrollments.

ORDER

IT IS THEREFORE ORDERED that the Application of i-wireless, LLC to add 49 additional zip codes to extend its current Eligible Telecommunications Carrier designated service area pursuant to U.S.C. § 214(e)(1) for the purpose of receiving federal universal service support in Arizona, as set forth in Attachment 1 attached hereto and incorporated herein by reference, be and hereby is granted as discussed herein.

IT IS FURTHER ORDERED that i-wireless, LLC shall file to include the additional zip codes in its existing ETC tariff within 30 days of the date of the Decision in this matter.

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<sup>8</sup> FCC 13-148 (November 1, 2013).

1 IT IS FURTHER ORDERED that i-wireless, LLC file, as a compliance item in this docket, a  
2 notice with the Commission when the FCC's NAL is resolved.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.  
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5 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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7 \_\_\_\_\_  
CHAIRMAN LITTLE

COMMISSIONER STUMP

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COMMISSIONER FORESE

COMMISSIONER TOBIN

COMMISSIONER BURNS

11  
12 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
13 Director of the Arizona Corporation Commission, have  
14 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 \_\_\_\_\_, 2016.

15  
16 \_\_\_\_\_  
17 JODI JERICH  
EXECUTIVE DIRECTOR

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19 DISSENT: \_\_\_\_\_

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21 DISSENT: \_\_\_\_\_

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1 SERVICE LIST FOR: i-wireless, LLC  
2 DOCKET NO. T-20538A-16-0324

3 Mr. Michael Patten  
4 SNELL & WILMER, LLP  
5 One Arizona Center  
6 400 East Van Buren Street, Suite 1900  
7 Phoenix, Arizona 85004

8 Mr. Thomas M. Broderick  
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 [JAlward@azcc.gov](mailto:JAlward@azcc.gov)

19 **Consented to Service By Email**

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