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Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF DISH WIRELESS )**  
**L.L.C.'S APPLICATION FOR DESIGNATION )** **CASE NO. DWL-T-23-01**  
**AS AN ELIGIBLE TELECOMMUNICATIONS )**  
**CARRIER IN THE STATE OF IDAHO FOR )**  
**THE LIMITED PURPOSE OF OFFERING )** **COMMENTS OF THE**  
**LIFELINE SERVICE TO QUALIFYING )** **COMMISSION STAFF**  
**CUSTOMERS )**

**COMMISSION STAFF (“STAFF”)** OF the Idaho Public Utilities Commission, by and through its Attorney of record, Michael Duval, Deputy Attorney General, submits the following comments.

**BACKGROUND**

On March 2, 2023, Dish Wireless L.L.C. dba Gen Mobile (“DISH Wireless” or the “Company”) applied to the Idaho Public Utilities Commission (“Commission”) for designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Idaho (“Application”). The Company filed supplemental material to its Application on April 3, 2023, and on July 28, 2023.

The Company represents that it seeks ETC designation status solely for the limited purpose of providing Lifeline service under the brand name “Gen Mobile” to qualifying Idaho consumers, including those on federally recognized Tribal lands. Additionally, the Company

requested that its ETC designation status include the authority to participate in and be reimbursed from the Idaho Telephone Service Assistance Program (“ITSAP”). Application at 4-5.

The Company asserts that it meets all federal and state requirements for designation as an ETC and argues that designating the Company as an ETC is in the public interest. The Company asks that the Commission grant it ETC status “expeditiously”. *Id.* at 5.

## **THE APPLICATION**

The Company is a Colorado limited liability company with a principal address at 9601 S. Meridian Blvd, Englewood, CO 80112. *Id.* at 2. Its parent company, DISH Network Corporation (“DISH Network”), is a connectivity company headquartered in Colorado and has served in the pay-tv market since 1980. *Id.* at 3. The Company is registered with the Idaho Secretary of State as a Foreign Limited Liability Company with a commercial registered agent in Idaho at Commercial Corporation Service Company 1305 12th Ave Road in Nampa, ID 83686. The Company states that it provides resold wireless telecommunications services in Idaho and other states, using the Gen Mobile brand name and other brand names. *Id.* at 2.

The Company asserts that it seeks an ETC designation status in Idaho so that it can (i) serve low-income Idaho customers, including those residing on Tribal lands, (ii) supplement the amount of support available to its current ACP customers, and (iii) invite new, underserved customers to benefit from Lifeline and other federal support programs. The Company asserts that its Lifeline-supported plans will be offered to prepaid customers under the Gen Mobile brand, a recognized and trusted provider in this market segment. The Company represents that the “Gen Mobile prepaid wireless plans are affordable, easy to use, and attractive to low-income consumers, providing them with connectivity that has become indispensable to participating in 21st century society and opportunities. Gen Mobile customers can choose from several affordable prepaid calling plans and handsets and have access to high-quality, responsive customer service.” *Id.* at 4.

The Company represents that it will provide access to high quality mobile voice, text, and data services to eligible low-income consumers, including those residing on Tribal lands. *Id.* at 20. Additionally, it’s service offering will include a plan with 1,000 voice minutes, 1,000 texts, and 4.5 GB of data available to all qualifying low-income Idaho consumers for no cost, and a plan with unlimited voice minutes, unlimited texts and 11 GB of data available to residents of

Tribal lands for no cost. Qualified Idaho consumers will have the choice to apply their Lifeline discount to existing Gen Mobile plans. *Id.* at 17.

## **STAFF ANALYSIS**

Staff reviewed the Company’s Application and analyzed the Company’s fulfillment of the Federal Telecommunications Act of 1996, the FCC’s regulations, and Commission Order No. 29841. The specific state and federal requirements for ETC designation are discussed in more detail as follows:

### **Public Interest Considerations**

Staff applied a two-prong test when analyzing whether a company’s ETC Application is in the public interest. First, Staff determines whether the company contributes to Idaho funds. Second, Staff analyzes whether the company’s Application raises “cream skimming” concerns.

In its Application, the Company specifically requested that its ETC designation include the authority to participate in and receive reimbursement from the Idaho Telephone Service Assistance Program (“ITSAP”). *Id.* at 2. The Company requests ETC designation that is statewide in scope. *Id.* at 18-19. Therefore, no cream skimming analysis was required. Thus, Staff believes the Company satisfies the public interest considerations.

### **Tribal Notification**

Pursuant to Commission Order No. 35126, an ETC applicant seeking ETC designation for any part of tribal lands shall provide a copy of its application to the affected tribal government or tribal regulatory authority, as applicable, at the time it files its application with the Commission. Evidence of such notification shall be provided to the Commission. On July 28, 2023, the Company provided copies of its communications with the various authorities of the tribal land. *See* Supplemental to Application. Staff believes that these communications comply with Commission Order No. 35126.

### **Network Improvement Plan**

The Commission requires a two-year network improvement and progress report from all ETCs receiving high-cost support. Order No. 29841 at 18. However, the Commission

determined in Cricket Communications, Inc.’s ETC Application in Case No. CRI-T-11-01 that a two-year network improvement plan did not apply to Lifeline-only ETCs. Order No. 32501.

In its Universal Service Fund (“USF”) and Inter Carrier Compensation (“ICC”)<sup>1</sup> Transformation Order, the Federal Communications Commission (“FCC”) amended 47 C.F.R. § 54.202 to clarify that a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC. Lifeline-only ETCs do not receive high-cost funds to improve or extend networks, therefore the FCC “saw little purpose in requiring such plans as part of the ETC designation process.”<sup>2</sup> The Company’s Application seeks only low-income USF support as a Lifeline-only ETC. Thus, Staff agrees that a network improvement plan is not a requirement for the Company’s ETC Application.

### **Ability to Remain Functional in Emergencies**

The Company states that it can remain functional in emergencies per Commission Order 29841 and FCC requirement 47 C.F.R. § 54.202(a)(2). *Id* at 10-11. The Company asserts that it operates in a cloud-native environment that is not encumbered by traditional technology and will be more flexible and resilient in the event of service outages. *Id*. Additionally, the Company asserts that it will rely on mobile virtual network operator partner networks that are designed to remain functional even without external power sources, are able to re-route traffic around damaged facilities, and can manage traffic spikes that may occur in emergency situations.” *Id* at 11. Staff agrees that the Company satisfies this requirement.

### **Other ETC Designation Requirements**

Additional requirements for ETC designation are detailed in Appendix 1 of Order No. 29841 and are discussed in more detail below:

1. Common Carrier Status. AirVoice is a common carrier as defined in U.S.C. Title 47 U.S.C. § 153(11). *Id*. at 6.

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<sup>1</sup> ICC is the system of regulated payments in which carriers compensate each other for the origination, transport, and termination of telecommunications traffic.

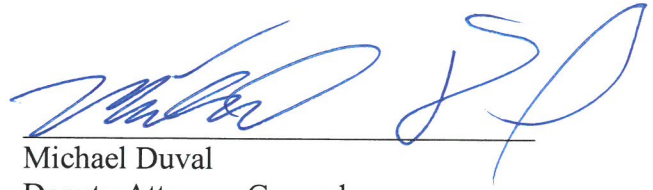
<sup>2</sup> See Lifeline and Link up Reform and Modernization et al, WC Dkt No. 11-41 et al. Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 at para 386.

2. Provide Universal Services. The Company will provide all required services and functionalities as outlined in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)). *Id.* at 12.
3. Advertising. The Company will advertise the availability and rates for its services described in the Application through media of general distribution as required by 47 U.S.C. § 214(e)(1)(B) and in 47 C.F.R. § 54.201(d)(2). *Id.* at 9. Samples of the Company's Lifeline advertising are attached to the Application as Exhibit 4.
4. A Commitment to Consumer Protection and Service. The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards, including compliance with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service as required by 47 C.F.R. § 54.202(a)(3). *Id.* at 10.
5. Description of the Local Usage Plan. The Company will offer a Lifeline service plan. Exhibit 2. Furthermore, the Company will meet the service standards outlined in 47 C.F.R. § 54.101 (a), including as such standards are updated going forward. *Id.* at 7, 17.

## **STAFF RECOMMENDATION**

Based on its review of the Company's Application and all of the additional filings, Staff believes that the Company demonstrated its commitment to fulfilling the obligations of a Lifeline-only ETC in Idaho. The Company will provide all universal services supported by the federal USF throughout its service territory. It has addressed the public interest questions that accompany an ETC Application. The Company will provide multiple pricing plans, which will increase consumer choice for low-income telephone services in Idaho. Currently, the Commission has granted wireless ETCs access to participate in the State's ITSAP program, so Staff supports allowing the Company to participate in the ITSAP program. Staff believes that the Company's Application for designation as an ETC is in the public interest and should be approved for the entire State of Idaho as the service area.

Respectfully submitted this 16th day of August 2023.

A handwritten signature in blue ink, appearing to read 'Michael Duval', is written over a horizontal line. To the right of the signature, there is a large, stylized blue mark that resembles the number '30'.

Michael Duval  
Deputy Attorney General

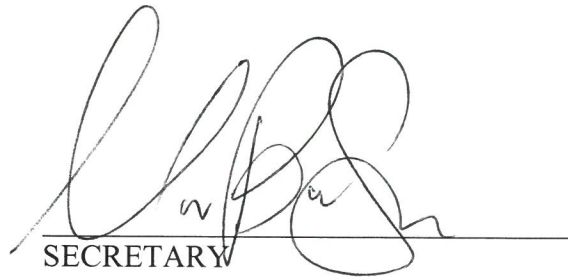
Technical Staff: Johan Kalala-Kasanda

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 16<sup>th</sup> DAY OF AUGUST 2023, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. DWL-T-23-01, BY EMAILING A COPY THEREOF, TO THE FOLLOWING:

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