

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Carrier Oversight & Programs Branch**

**RESOLUTION T- 17448  
AUGUST 28, 2014**

**R E S O L U T I O N**

Resolution T-17448. This Resolution conditionally grants the request of Air Voice Wireless, LLC to be designated as an Eligible Telecommunications Carrier to provide only federal Lifeline wireless service in specified areas of California.

**Summary**

By this Resolution, the California Public Utilities Commission (CPUC or Commission) conditionally grants the request of Air Voice Wireless, LLC (Air Voice) (U-4451-C), a wireless carrier, to be designated as an Eligible Telecommunications Carrier (ETC) to provide only federal Lifeline wireless service to qualifying customers in California in the service areas of the Uniform Regulatory Framework (URF) carriers<sup>1</sup> excluding the Small Local Exchange Carriers (Small LECs)<sup>2</sup> service areas. Air Voice proposes to offer the Lifeline service under the brand designation "*Feel Safe Wireless.*" Air Voice does not seek federal high-cost fund support or California LifeLine fund support. The request is consistent with the Federal Communications Commission's (FCC) Lifeline requirements, the Commission's ETC requirements of Resolution T-17002, applicable CPUC General Order (GO) 153 LifeLine requirements, and applicable requirements for CPUC wireless registered carriers. We find that the request is reasonable and consistent with the public interest and should be granted to the extent allowed by this Resolution.

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<sup>1</sup> The URF carriers are AT&T California, Verizon California, Surewest Telephone, Frontier Communications of California, and Frontier of the South West.

<sup>2</sup> The Small LECs group is composed of Calaveras Telephone Co. (U-1004-C), Cal-Ore Telephone Co. (U-1006-C), Ducor Telephone Co. (U-1007-C), Foresthill Telephone Co. (U-1009-C), Happy Valley Telephone Co. (U-1010-C), Hornitos Telephone Co. (U-1011-C), Kerman Telephone Co. (U-1012-C), Pinnacles Telephone Co. (U-1013-C), Ponderosa Telephone Co. (U-1014-C), Sierra Telephone Co. (U-1016-C), Siskiyou Telephone Co. (U-1017-C), Volcano Telephone Co. (U-1019-C), Winterhaven Telephone Co. (U-1021-C), and Frontier Communications West Coast (U-1020-C). These telephone companies generally operate in rural areas and have regulated rates.

## Background

Pursuant to federal law, 47 U.S.C. § 214(e)(2), a state commission may designate a common carrier as an ETC if it:

- offers the services supported by the federal Universal Service Fund (USF) either by using its own facilities, resale, or both, and
- advertises the services and the related charges using advertising media of general distribution.

Once designated an ETC, the FCC then authorizes the ETC to receive federal USF support for providing those services supported by the USF (e.g. local telephone service) in high-cost areas and to low-income customers.

The FCC established the ETC program to satisfy the statutory requirement of the Telecommunications Act of 1996.<sup>34</sup> The federal USF support creates an incentive for the telephone carriers to provide quality residential telephone services at an affordable rate to low-income consumers and/or those living in designated high-cost areas, e.g. rural areas.

47 C.F.R. § 54 contains the FCC's Universal Service rules issued to implement § 254 of the Telecommunications Act regarding universal service. Sections 54.400 - 54.422 address federal Lifeline service. Section 54.401 defines Lifeline as a non-transferrable retail service offering for which qualifying low-income consumers pay a reduced charge for voice telephony service after applying the federal Lifeline support amount.<sup>5</sup>

### FCC Orders

The FCC has made significant changes to the federal Universal Service Program in the past several years. The following provides a brief summary of some of the relevant aspects of the FCC orders that address ETC matters:

**FCC 11-161 (November 18, 2011), the federal USF and Intercarrier Compensation (ICC) Transformation Order**, modified the definition of the services that are supported by the Federal USF by eliminating the FCC's former list of nine supported services and adopting a definition that is technology neutral, now focusing on service functionality instead of the technologies used and allowing services to be provided over any platform.<sup>6</sup>

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<sup>3</sup> 47 U.S.C. § 153(51) states that "a telecommunications carrier shall be treated as a common carrier under this chapter only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as a common carriage."

<sup>4</sup> 47 U.S.C. § 214(e).

<sup>5</sup> 47 C.F.R. § 54.403.

<sup>6</sup> *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket

In addition, the Order reformed the framework for ETC oversight by the FCC, state commissions, Tribal governments, and the Universal Service Administrative Company (USAC).<sup>7</sup> The Order established uniform national standards of accountability related to reporting requirements and annual § 254(e) certifications<sup>8</sup>; imposed consequences of non-compliance with rules; described the USAC oversight process, access to cost & revenue data; and, updated the federal USF/ICC systems including revisions to the information required of common carriers when seeking ETC designation and annual reporting requirements. ETCs must meet public interest obligations and apply new certifications related to the public interest.

**FCC 11-189 (December 23, 2011), the Sua Sponte Order on Reconsideration**, clarified the attributes of “voice telephony service” by amending the definition of services supported by the federal USF in order to establish a more technologically neutral approach to functionality over any platform, not just based on technology. With the amendment of § 54.101, voice telephony services must, by definition provide a) voice grade access to the public switched network or its functional equivalent, b) minutes of use for local service provided at no additional charge to end users, c) access to emergency services provided by local government or other public safety organizations (e.g. 911 or E-911), and d) toll limitation for qualifying low-income consumers.<sup>9</sup> Additionally, the Order affirmed that Lifeline-only ETCs do not meet the “own facilities” requirement if their facilities no longer support the “voice telephony service” under the amended section. To be in compliance with rules, Lifeline-only carriers seeking ETC designation must use their own facilities, in whole or in part, to provide the supported services or obtain forbearance from the FCC.<sup>10</sup>

**FCC 12-11 (February 6, 2012), the Lifeline Reform Order**, revised the definition of Lifeline service to include technological-neutral terms of service and adopted a rule to permit ETCs to allow qualifying consumers to apply Lifeline discounts to all residential service plans that provide voice telephony service including bundled service packages of voice and broadband or packages with optional calling features. ETCs can apply the Lifeline discount to any retail service offering, not just to offerings specifically designed for low-income consumers.<sup>11</sup>

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No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking (FCC 11-161) (rel. Nov. 18, 2011) (*USF/ICC Transformation Order*) ¶ 77.

<sup>7</sup> *Id.* at § VIII.

<sup>8</sup> 47 U.S.C. § 254(e) requires ETCs to use federal support funds only for the provision, maintenance, and upgrading facilities and services.

<sup>9</sup> *Connect America Fund et al.*, WC Docket 10-90 et al., Order on Reconsideration, 26 FCC Red 17633 (2011)(*First Order on Reconsideration*) ¶ 3.

<sup>10</sup> *Id.* at ¶ 4.

<sup>11</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Dkt. 11-42, WC Dkt. 03-109, CC Dkt. 96-45, WC Dkt. 12-23 (FCC 12-11) rel. Feb 6, 2012 (*Lifeline Reform Order*) ¶¶ 315-316.

The Order updated the definition of Lifeline to be consistent with the new definition of the supported services (e.g. voice telephony service) adopted in FCC 11-161, the Transformation Order, and removed the “local” qualifier because many providers no longer distinguish between local and long distance usage since service offerings bundle minutes of use. Prior to the adoption of FCC 12-11, an ETC had to demonstrate that it offered a local usage plan comparable to one offered by the incumbent LEC in the service area(s) for which the ETC applicant sought designation. The FCC never adopted a specific local usage threshold leaving it up to a fact specific case-by-case analysis that took into consideration different local calling areas than those of the incumbent LEC, a specified number of free local minutes, or the offering of an unlimited calling plan that bundles local and long distance minutes.<sup>12</sup> In FCC 12-11, however, the FCC noted that many providers do not distinguish between local and long distance usage and concluded that carriers may satisfy the obligation to provide local usage via service offerings which bundle local and long distance minutes<sup>13</sup> and concluded that this finding was applicable also to Lifeline service. The FCC, therefore, determined it appropriate to remove the qualifier “local” from Lifeline comparable local usage requirements and determined that prescribing a minimum amount of local minutes was not necessary at this time.

The Order updated its ETC rules<sup>14</sup> for all ETCs by: a) modifying the definition of ETC to include ETC’s designated by the FCC as well as by the states; b) requiring all carriers requesting ETC designation to demonstrate financial and technical capability to provide Lifeline services; and, c) streamlining annual reporting requirements, including service outages, into a new section 47 C.F.R. § 54.422. By adopting these program revisions, the FCC expects to strengthen protections against waste, fraud, and abuse while improving program administration, accountability, and consumer protections.

47 U.S.C. § 214(e)(1)(A) requires an ETC to provide the supported services through the use of its own facilities or a combination of its own facilities and resale. The Order concluded that forbearance from the facilities requirement would be in the public interest because it will increase connection among providers of telecommunications services. As a condition of granting forbearance from the “own-facilities” rule, resellers must have an FCC-approved Compliance Plan. Section 214(e)(1)(A) limits ETC designation to common carriers providing service with their own facilities. The FCC granted forbearance to this requirement to those common carriers that do not meet the “own facilities” requirement, subject to the conditions that<sup>15</sup>: a) the carrier must comply with certain 911 requirements

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<sup>12</sup> *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Dkt. 96-45 (FCC 05-46), rel. Mar 17, 2005. ¶¶ 32-33.

<sup>13</sup> *Lifeline Reform Order* at ¶ 49.

<sup>14</sup> *Id.* at ¶¶ 384-391.

<sup>15</sup> *Id.* at ¶ 379.

including, but not limited to, the procedures the ETC follows in enrolling a subscriber in Lifeline and submitting for reimbursement for that subscriber from the fund, materials related to initial and ongoing certifications and sample marketing materials, as well as further safeguards against waste, fraud, and abuse the FCC may deem necessary and b) the carrier must file, and the FCC must approve, a compliance plan that provides specific information regarding the carrier's service offerings and outlines the measures the carrier will take to implement the obligations set forth in FCC 12-11. This includes a detailed description of how the carrier offers service, the geographic areas in which it offers service, and a description of the carrier's various Lifeline service plan offerings including subscriber rates, number of minutes included, and the types of plans available.

The FCC has declined to prescribe minimum monthly minute standards, finding that it was not necessary because the communications market place should make this determination, citing examples of competitive forces driving up the number of minutes offered to Lifeline customers.<sup>16</sup> While the FCC has not prescribed minimum minutes of use for Lifeline plans, Communications Division (CD) staff reviews an ETC applicant's proposed plans to determine if they are based on retail offerings of the ETC applicant that are available to its non-Lifeline customers or if the plans are offered only to Lifeline customers. For those Lifeline plans that are not based on retail plans available to all prospective customers, CD staff evaluates the Lifeline customer-only plans in its public interest analysis of each ETC request.

**FCC 12-52 (May 14, 2012), the Third Order on Reconsideration**, extended annual reporting requirements to all recipients of federal high-cost/Connect America Fund (CAF) support, including state-designated ETCs, and clarified that the FCC will not preempt states from imposing state-specific reporting requirements as long as those additional reporting requirements do not create burdens that thwart achievement of the universal service reforms adopted by the FCC.

### **California Public Utilities Commission Requirements**

The Commission may approve federal ETC designation requests when a carrier also complies with the following California state requirements:

**Resolution T-17002 (May 25, 2006)**, adopted *The Comprehensive Procedures and Guidelines for ETC Designation and Requirements for ETCs* that are consistent with FCC Order 97-157 regarding designation of a telephone carrier as a qualified ETC. All carriers seeking ETC designation in California are required to comply with the applicable federal ETC requirements and CPUC requirements for certificated or registered carriers operating in California which include, but are not limited to: a description of the proposed service offerings and attached service area maps;

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<sup>16</sup> *Id.* at ¶ 50.

description of the advertising plan(s); commitment to provide service; submission of the 2-year service quality improvement plan; ability to remain functional; commitment to consumer protection; demonstration that a carrier's usage plan is comparable to that of the incumbent LEC in the proposed service area; and, public interest determination.

**General Order 153 (GO 153)** implements the *Moore Universal Telephone Service Act* and contains California LifeLine service requirements. CD staff applies the provisions of GO 153 in the evaluation of ETC designation requests using the list of 22 service elements to which each carrier addresses their compliance.<sup>17</sup> Federal Lifeline wireless ETCs must comply with current provisions of GO 153 until the Commission revises GO 153 and determines the extent to which revised GO 153 and revised California LifeLine service elements should apply to federal Lifeline wireless ETCs in the California LifeLine Rulemaking (R.) 11-03-013.

**User Fees and Surcharges** are obligations which CPUC-approved carriers must fulfill. The Public Utilities Commission (PUC) User Fee is levied on all telecommunications carriers providing services directly to customers or subscribers and the amount of fees is a percentage calculation based on all intrastate customer billings for telecommunications services. In addition, all telecommunications carriers that provide basic telephone service are required to collect and remit Public Purpose Program (PPP) surcharges from end-users that fund the Commission's universal service program. When reviewing ETC designation requests, CD staff reviews carrier compliance with these state regulatory requirements for telephone corporations operating in California including, but not limited to, reporting and paying PUC User Fees, PPP surcharges, and submitting required reports.

## Notice/Protests

The advice letter filing was served via email to all parties on the ETC service list and appeared in the Commission's Daily Calendar on July 19, 2013. No protests to this advice letter filing were received.

## Discussion

Air Voice Wireless, LLC (Air Voice) is a nationwide prepaid wireless service provider that uses wholesale network services from AT&T Wireless to provide service to its customers. Its principal offices are at 2425 Franklin Road, Bloomfield Hills, Michigan, 48302. Air Voice provides non-Lifeline prepaid wireless service and either has been designated as an ETC in some states or has ETC requests pending before the FCC and other state commissions. On March 28, 2013, the Commission issued Air Voice its Wireless Identification Registration number U-4451-C allowing it to operate as a reseller

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<sup>17</sup> See *Attachment B* for list of GO 153 service elements.

of Commercial Mobile Radiotelephone Services (CMRS) to the public in California. Air Voice has complied with the regulatory requirements for telephone corporations operating in California including, but not limited to, reporting and payment of PUC User Fees and Public Purpose Programs (PPP) surcharges and submitting required reports.

On July 17, 2013, Air Voice filed Tier III Advice Letter (AL) 1 requesting ETC designation to receive federal support to provide only federal Lifeline prepaid wireless service to eligible customers throughout its entire service area using wholesale network services from AT&T Wireless excluding the Small LEC areas. Under the brand designation "*Feel Safe Wireless*," Air Voice proposed a prepaid federal Lifeline wireless plan called the *250 Minute Plan* for \$0 per month.

On May 5, 2014, Air Voice filed AL Supplement 1A to request additional authority to provide California LifeLine wireless service. General Order 96-B General Rule 7.5.1 states that a supplement may make a major revision to an advice letter. However, since AL 1 only requested federal Lifeline ETC designation, and not California LifeLine approval, Air Voice withdrew AL 1A on June 19, 2014. Air Voice must file a separate advice letter to request California LifeLine approval.

On June 30, 2014, Air Voice filed AL Supplement 1B requesting to modify its proposed federal Lifeline request to remove the *250 Minute Plan* and add the following plans:

- Plan 1: *1,000 Minute Plan* for \$12.65 per month, a retail value of \$21.90 less the \$9.25 federal support
- Plan 2: *Unlimited Talk & Text* with 500 MB data for \$20.75 per month, a retail value of \$30 less the \$9.25 federal support
- Plan 3: *Unlimited Talk & Text* with 1 GB data for \$30.75 per month, a retail value of \$40 less the \$9.25 federal support
- Plan 4: *Unlimited Talk & Text* with 3 GB data for \$50.75 per month, a retail value of \$60 less the \$9.25 federal support

With the *1,000 Minute Plan*, additional minutes can be purchased as 100 minutes in a \$10 re-charge or 250 minutes in a \$20 re-charge. The cost of voice calls in both refills is \$0.10 per minute. Text and multimedia messages (MMS) are \$0.10 per minute and data/web use costs \$0.33 per MB.

On July 9, 2014, Air Voice filed AL Supplement 1C correcting the GO 153 service elements with which it will comply and requesting waivers from elements (4), (10), (11), (12), (15), (19) and (20).

### **Compliance with Federal Rules**

#### **Federal ETC Requirements:**

The FCC defines Lifeline as a non-transferrable retail service offering for which low-income consumers pay a reduced charge as a result of applying the federal Lifeline

support amount<sup>18</sup>, currently at \$9.25 per month per Lifeline customer.<sup>19</sup> The following FCC ETC requirements must be satisfied by a carrier to receive federal ETC designation. Air Voice addressed the FCC ETC requirements as follows:

**Demonstrate that the services intended to be offered comply with the voice telephony definition** - Pursuant to 47 U.S.C. § 214(e)(1) and (6), Air Voice submits that it is a common carrier and is able to provide telephone exchange and exchange access through its wholesale arrangements with its underlying facilities-based provider, AT&T Wireless.

**Advertise using media of general distribution** - Air Voice demonstrates that its Lifeline services meet the definition of voice telephony and Air Voice commits to advertise in a manner reasonably designed to reach those likely to qualify for Lifeline using media of general distribution which may include advertisements via newspapers, direct mail, event representation, radio and the internet. Air Voice also may promote the availability of its Lifeline offering by distributing brochures at various state and local social service agencies, and may partner with non-profit assistance organizations in order to inform customers of the availability of its Lifeline services.

**Commit to provide service throughout the designated service area** - Air Voice commits to provide service in the areas that it is designated an ETC, based on the build-out of the facilities and availability of service of its underlying facilities-based carrier, AT&T Wireless and will expand its service area as AT&T Wireless continues to develop additional facilities.

**Ability to remain functional during emergency situations** - Air Voice's agreement with AT&T Wireless allows the company to provide its customers the same ability to remain functional in emergency situations as currently provided by AT&T Wireless to its own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, the ability to reroute traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations. AT&T Wireless has redundancies, back-up generator power and an extensive disaster recovery program.

**Submit an FCC-approved *compliance plan*** - Air Voice submitted its compliance plan approved by the FCC on December 26, 2012.

**Demonstrate financial and technical capability** - Air Voice is financially and technically capable of providing Lifeline-supported services. Air Voice has provided retail prepaid wireless services since 1999 and is one of the largest providers in the United States serving more than one million consumers. Privately held with no holding company, operating company, or affiliates, Air Voice has been

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<sup>18</sup> 47 C.F.R. § 54.401.

<sup>19</sup> *Lifeline Reform Order* at ¶ 58.

profitable since inception and has no outstanding debt. Its headquarters and customer service center is maintained in Bloomfield Hills, Michigan and the company has approximately 5,000 retail agents. Key management has been with the company since 1999 and has significant technical and managerial experience in prepaid wireless service industry. Air Voice provides services to more than 150,000 prepaid, non-Lifeline customers in more than 20 states including its largest markets in Indiana, Michigan, Pennsylvania, and Texas.

**Commit to submit required compliance reports annually and as requested** – Air Voice did not address this requirement and CD staff recommends that the carrier be required to file the required annual compliance reports with the FCC and this Commission, as directed.

**Meet public interest requirements for the proposed service areas** – Air Voice asserts that it meets the FCC public interest criteria because it will provide consumers, especially low-income consumers, with low-prices and high quality services. Air Voice would provide increased consumer choice, service offerings, and mobility as well as the safety and security of effective 911 and E911 services through its portable and convenient wireless service. Air Voice’s entry into the market will promote competition which will spur competitors to improve their existing networks to remain competitive while giving low income residents a wider choice of providers and available services.

**Commit to satisfy all applicable consumer protection and service quality standards** – Air Voice commits to satisfy all applicable state and federal consumer protection and service quality standard requirements, specifically committing to comply with the Cellular Telecommunications and Internet Association’s (CTIA) Consumer Code for Wireless Service.

**Agree to apply the Lifeline support discount to residential retail plans** – Air Voice states that it will apply the \$9.25 Lifeline support amount to its proposed plans.

Air Voice did not address its commitment to file federal compliance reports (e.g., Form 481, etc.) annually and CD staff recommends that the carrier be required to file these reports with the FCC and this Commission, as directed.

In addition, FCC 12-11 Paragraphs (¶) 384-391 changed some of the ETC designation and compliance reporting requirements in Part 54 in order to centralize and streamline certification and reporting requirements. These changes were effected by deleting Part 54.202 and establishing § 54.422.<sup>20</sup>

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<sup>20</sup> *Wireline Competition Bureau Announces Filing Deadline of October 15, 2013 for Eligible Telecommunications Carriers to File High-Cost and Low-Income Annual Reports, and Announces Filing Deadline of December 16, 2013 for States and ETCs to File Annual Use Certifications*, Public Notice, WC Dkt.1090 and 11-42, [DA 13-1707](#) (August 6, 2013)

- ¶ 385 - Definition of ETC in § 54.5 as modified includes ETCs designated by the FCC
- ¶ 386 - Lifeline-only ETCs exempted from filing 5-year network improvement plans
- ¶ 387-388 - Explicit requirement that ETC applicants must demonstrate financial and technical capability to provide Lifeline service including:
  - Previous experience offering service to non-Lifeline customers
  - Length of time in business
  - Whether applicant will rely exclusively on Lifeline revenues to operate
  - Whether applicant will receive revenue from other sources
  - Previous enforcement action against applicant or ETC revocation proceedings in other states
- ¶ 389 - Reporting requirements within § 54.422
  - Service outage information
  - Number of complaints received per 1,000 connections
  - Compliance with service quality standards and consumer protection rules
  - Certify that the carrier can operate in emergency situations
- ¶ 390 - Other reporting requirements
  - Names and identifiers used by the ETC, its holding company, operating companies and affiliates
  - General information of terms and conditions of Lifeline voice telephony plans offered to Lifeline customers including number of minutes provided, additional charges for toll calls, and rates for each plan.

47 C.F.R. § 54.401(d) requires that when a state commission designates a carrier an ETC status, the state commission shall file or require the ETC to file information with USAC that demonstrates that the ETC's Lifeline plan meets the universal service support criteria for low-income consumers including the terms and conditions of voice telephony service plans and the plan details.<sup>21</sup> To comply with § 54.401(d), CD recommends that the Commission direct Air Voice to file the applicable information directly with USAC. USAC will review the service plans to ensure they meet the federal Lifeline requirements. Once USAC accepts the service plans, Air Voice shall provide to the Communications Division Director a copy of the information submitted to USAC and a copy of Air Voice's certification of approval from the USAC within 30 days of receipt from USAC.

CD staff finds that Air Voice meets the FCC ETC requirements.

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<sup>21</sup> USAC requires a copy of a new ETC's designation order issued by its state utility regulator, <http://usac.org/li/telecom-carriers/step03/default.aspx>. Site last visited May 15, 2014.

### **Compliance with State Rules**

#### **GO 153 Basic Service Elements Compliance:**

GO 153 requires compliance with 22 basic service elements of California LifeLine. (See *Attachment B* of this resolution for a complete list of California LifeLine basic service requirements.)

In its AL Supplement 1C, Air Voice requested waivers from several California LifeLine basic service elements set forth in D.10-11-033 as follows: (4) the ability to receive free incoming calls, (10) customer choice of local flat-rate or measured-rate service, (11) free provision of one directory listing per year, (12) availability of free white pages telephone directory, (15) free access to 800 and 800-like toll-free numbers, (19) free access to toll-blocking service, and (20) free access to toll-control service.<sup>22</sup>

CD staff recommends granting waivers from elements (4), (10), (11), (12), and (15) because they do apply to wireline, not wireless, service providers and the Commission has granted such waivers in the past. Likewise, CD staff recommends granting waivers from elements (19) and (20) since there is no distinction between the local and long distance usage of minutes offered in Air Voice's proposed plans and therefore, those elements do not apply. CD staff recommends that the waivers remain in effect until such time that this Commission revises GO 153 and determines the extent to which revised GO 153 rules and revised California LifeLine service elements should apply to federal Lifeline wireless ETCs in the California LifeLine rulemaking proceeding.

#### **LifeLine Third Party Administrator:**

GO 153, § 4.2 related to California LifeLine enrollment procedures provides a reasonable means for wireless carriers to determine if a prospective low-income customer is eligible for federal Lifeline wireless service. In California, the California LifeLine Administrator (CLA) performs enrollment application and renewal functions.<sup>23</sup> The CLA's process captures inconsistent or duplicative LifeLine/Lifeline enrollments to mitigate "double dipping" into the support funds through periodic duplicate checks. When such inconsistencies arise, the CLA de-enrolls the customer and informs the carrier of record. In the case of the federal Lifeline program, the FCC and USAC retain the obligation to identify "double dipping" and/or other inconsistent or duplicative draws for reimbursement from the federal support fund.

In addition, GO 153 requires that the service provider send an annual renewal form to each Lifeline customer to determine continued eligibility.<sup>24</sup> Air Voice agrees to comply with GO 153 requirements, including consumer enrollment, prequalification, certification, eligibility verification and annual renewal, and working with the CLA. Air Voice stated it will not provide discounted wireless service until the low-income customer is determined eligible and enrolled by the CLA. Once established, Air Voice

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<sup>22</sup> D.10-11-033 (November 19, 2010).

<sup>23</sup> GO 153, § 4.2.1. The current California LifeLine Administrator is Xerox.

<sup>24</sup> GO 153, §§ 4.4, 4.5.

will adjust monthly charges of the retail plan with the Lifeline discount retroactive to the application date.

CD staff recommends that the Commission require Air Voice to label clearly its wireless offerings as "*federal Lifeline service.*" Doing so would minimize customer confusion between the California LifeLine and federal Lifeline programs, disseminate adequate information about potential coverage and service quality issues, and provide copies of all marketing materials including, but not limited to, customer service representative scripts, internet marketing, and posters and brochures to CPUC California LifeLine staff for review and approval prior to publication and distribution.

**Resolution T-17002 Compliance:**

Air Voice has satisfied the applicable requirements set forth in Resolution T-17002 including, but not limited to: providing Lifeline-only services within the proposed service area; providing the designated services; and complying with advertising rules as required by the FCC such as using printed advertisements, billboards, public transit signage, and brochures, all of which will state clearly that the Lifeline support is from the federal Lifeline program only.

At the time of review, Air Voice was current with payment of the annual PUC User Fees and public purpose program surcharges. As a condition of its Commission authority and its ETC designation, Air Voice must continue to remain current with its payments. The Commission may revoke Air Voice's ETC designation and/or operating authority if the company does not remit timely fees and surcharges and will notify the USAC and the FCC of the revocation.

Air Voice states it has the ability to remain functional in emergency situations by working with its underlying carrier, AT&T Wireless. Air Voice commits to satisfy all applicable state and federal requirements related to consumer protection and service quality standards.

**Providing Federal Lifeline Wireless Service to Customers in Small LEC Service Areas:**

Air Voice does not seek ETC designation in the service territories of the Small LECs. Consistent with the policy adopted in Resolution T-17284, Air Voice commits to coordinate with the Small LECs using their list of the ZIP+4 codes<sup>25</sup> associated with the Small LECs service areas. Air Voice will use that data to ensure that no federal Lifeline wireless service is offered to customers residing in the Small LECs' service areas.

CD staff recommends that the Commission require the Small LECs, within 30 days of the effective date of this Resolution, as they do for all current ETCs, to provide Air Voice

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<sup>25</sup> ZIP+4 code is the standard ZIP code with a four digit add-on code. This add-on code identifies a smaller geographic region within the main code, such as a city block, office building, etc. In Resolution T-17284, Virgin Mobile was required to screen prospective Lifeline customers to ensure they do not reside in the Small LECs' territories. The screening can be accomplished by using the list of ZIP+4 codes for the Small LEC service areas.

with an updated ZIP+4 code data list of the Small LECs' service areas<sup>26</sup>, as appropriate for the carrier and the service area. The Small LECs should also be required to provide to Air Voice any update to the ZIP+4 code data, as needed. Air Voice should file a copy of any updated ZIP+4 code data list with the Communications Division Director and the CLA. The ZIP+4 code data shall be provided in an MS Excel file (.xls) format via email to the CD Director. The Small LECs also shall provide the CLA the ZIP+4 code data in a format specified by the CLA.

CD staff considers it appropriate for the Commission to rely on the Small LECs to monitor for instances where they believe a wireless carrier is providing federal Lifeline wireless service to any Small LEC customers. Should such instances arise, the Small LECs can raise for Commission review any related concerns about Air Voice's behavior or practices in the Small LECs' service areas. If the matter cannot be resolved informally, the Small LECs can file a formal complaint with the Commission.

Consistent with the approach taken in Virgin Mobile's resolution T-17284 (May 5, 2011), Air Voice must file another Tier III advice letter requesting authority to expand its ETC wireless service area. Until such time that CD issues revised rules and guidelines for federal ETC designation, any change of service territory from that originally granted requires the ETC designee to submit a Tier III Advice Letter for Commission approval by resolution.

**Public Interest Determination:**

Before recommending designation of a carrier as an ETC, CD staff must determine that doing so would be in the public interest for California consumers.<sup>27</sup> In the Lifeline Order, the FCC clearly states the importance of promoting universal service principles<sup>28</sup> and in that context that the Lifeline program includes a public interest determination particularly for Lifeline-only ETCs where forbearance of the facilities-based requirement exists.<sup>29</sup> Since the federal Lifeline program adopted a technology-neutral definition for supported service, Air Voice proposes to give consumers a variety of rate plans that provide feature-rich mobile connectivity. While wireless connectivity has limitations, the choice of mobile communications is a benefit if it fits a low-income customer's budget, needs, and lifestyle. Air Voice states that it meets the FCC criteria for public interest determination, including the benefits of increased competitive choice, convenience, security with mobility, ability to purchase additional usage, and the ability to use supported service to send and receive text messages in a prepaid plan.

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<sup>26</sup> On July 5, 2011, the Small LECs filed with the CPUC the ZIP+4 code data pursuant to Resolution T-17284. On July 6, 2011, Frontier Communications West Coast, Inc. filed the ZIP+4 code data for its service areas pursuant to T-17284.

<sup>27</sup> *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Dkt 96-45 (FCC 05-46), released Mar 17, 2005 ¶ 40 and CPUC Resolution T-17002, *Appendix A, Section II-G: Public Interest Determination*.

<sup>28</sup> 47 U.S.C. § 254(b)(c)(e)(2).

<sup>29</sup> *Lifeline Reform Order* at ¶¶ 219,378, 362, and fn 968.

Price Analysis

When analyzing Lifeline plan pricing, CD examines non-Lifeline retail plan prices, relying on competitive forces to determine what plans are reasonable. Therefore, CD recommends that federal Lifeline plans based on currently available retail plans be considered reasonable and should be offered to federal Lifeline customers, less the federal support amount(s). Based on AL 1B, of its four proposed plans, Plans 2, 3, and 4, the “*Unlimited Plans*,” are available as off-the-shelf retail service plans for all customers. Plan 1, the *1,000 Minute Plan*, is a Lifeline-only offering for qualified customers.

CD staff evaluated Air Voice’s proposed offerings using the expected monthly cost to a low-income consumer based on average minutes of use<sup>30</sup> compared to similar incumbent local exchange carrier (ILEC) Lifeline plans and other wireless ETC Lifeline plans.

Air Voice’s AL Supplement 1B revised the proposed service plans and customer costs as set forth on page 7 of this resolution. For customers with the *1,000 Minute Plan*, additional minutes can be purchased as 100 minutes in a \$10 refill or 250 minutes in a \$20 refill. Under both refills, the cost of voice calls is \$0.10 per minute, text and multimedia messages (MMS) are \$0.10 per minute, and data/web use costs \$0.33 per MB.

As proposed, Air Voice’s wireless Plans 1, 2, and 3 have equal or better value for low-income customers when compared to other prepaid wireless Lifeline packages. Plan 4, the *Unlimited Talk & Text* with 3 GB data, is a \$60 retail plan that would cost a Lifeline customer \$50.75 per month after applying the \$9.25 federal support amount. Compared to other currently available wireless Lifeline plans on the market, Air Voice’s Plan 4 would cost more than Total Call’s plan with unlimited talk, text, and data priced at \$39.99. See Chart 1 for comparison details.

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<sup>30</sup> *In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Dkt. No. 11-186 (FCC 13-34) (*Sixteenth Report on Mobile Competition*). The FCC annually issues a mobile competition report which reflects analysis of 2011 data submitted by carriers. CD staff analysis uses the 615 average minutes of use (MOU) for wireless voice as a base to evaluate Lifeline plan offerings (Table 38).

Chart 1 -- Comparison of Proposed Federal Lifeline Wireless Plans to Other Prepaid Federal Lifeline Wireless Plans in Service Area (Assuming Average Wireless MOU)

Air Voice Wireless, LLC branded as Feel Safe Wireless	Prepaid Federal Lifeline Wireless Plans															
	Feel Safe Plan 1: 1,000	Virgin Mobile 1000	Nexus 1000	Budget Mobile 1000	TAG Mobile Plan 1000	Total Call 1000 Talk & 1000 Text	Telscape 1100	Feel Safe Plan 2: Unlimited Talk, Text, & 500 MB Data	Cricket Unlimited	Total Call Unlimited Talk & Text	Virgin Mobile Unlimited	TAG Mobile Plan Unlimited	Feel Safe Plan 3: Unlimited Talk, Text, & 1 GB Data	Budget PrePay Unlimited Talk/Text	Total Call Unlimited Talk, Text, & Data	Feel Safe Plan 4: Unlimited Talk, Text, & 3 GB Data
Avg. MOU*	615	615	615	615	615	615	615	615	615	615	615	615	615	615	615	615
Basic Plan Minutes (allowance)	1000	1000	1000	1000	1000	1000	1100	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
Texts included	1 txt = 1 min	1000	-	250	1000	1000	1 txt = 1 min	Unlimited	-	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
Data included	-	-	-	-	-	-	-	500 MB	-	-	-	-	1 GB	-	Unlimited	3 GB
Avg. Excess MOUs	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cost per Min in excess of allowance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cost of excess minutes	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Min. Lifeline Plan Cost (per D.10-11-033) or Cost per Plan	\$12.65	\$20.00	\$20.00	\$20.00	\$20.00	\$19.99	\$20.00	\$20.75	\$21.50	\$29.99	\$30.00	\$30.00	\$30.75	\$32.00	\$39.99	\$50.75
Total GO 153 Cost to Customers	\$12.65	\$20.00	\$20.00	\$20.00	\$20.00	\$19.99	\$20.00	\$20.75	\$21.50	\$29.99	\$30.00	\$30.00	\$30.75	\$32.00	\$39.99	\$50.75
Caller ID	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Long Distance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Voicemail	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Federal Excise Tax	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Additional costs of vertical features	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Cost to Lifeline Customers with 615 MOU and additional costs of vertical features	\$12.65	\$20.00	\$20.00	\$20.00	\$20.00	\$19.99	\$20.00	\$20.75	\$21.50	\$29.99	\$30.00	\$30.00	\$30.75	\$32.00	\$39.99	\$50.75

Comparable Local Usage and Equal Access

To demonstrate that its proposed federal Lifeline wireless plans are reasonable, Air Voice provided a summary comparing its federal Lifeline wireless plans to retail and federal Lifeline offerings of other wireless and wireline local exchange carriers. CD, however, updated Chart 2 using the companies' websites to reflect current offerings and retail prices.

Chart 2 -- Comparison of Proposed Federal Lifeline Wireless Plans to California ILEC Federal Lifeline Wireless Measured Rate Plans and Prepaid Wireless Plans (Assuming Average Wireless MOU)

Air Voice Wireless, LLC branded as Feel Safe Wireless	Feel Safe Plans				ILEC MR Lifeline Plans				Prepaid Wireless Retail Plans					
	Feel Safe Plan 1: 1,000	Feel Safe Plan 2: Unlimited Talk, Text, & 500 MB Data	Feel Safe Plan 3: Unlimited Talk, Text, & 1 GB Data	Feel Safe Plan 4: Unlimited Talk, Text, & 3 GB Data	AT&T Lifeline MR (minimum)	AT&T Lifeline MR (maximum)	Verizon Lifeline MR (minimum)	Verizon Lifeline MR (maximum)	Virgin Mobile PayLo 1500	Nexus Reach Out Simple Plan 1000	Metro PCS Unlimited	AT&T Go Phone Unlimited Talk & Text	Sprint Basic Plus	Verizon Talk & Text 450
Avg. MOU*	615	615	615	615	615	615	615	615	615	615	615	615	615	615
Basic Plan Minutes (allowance)	1000	Unlimited	Unlimited	Unlimited	146	146	146	146	1500	1000	Unlimited	Unlimited	Unlimited	450
Texts included	1 txt = 1 min	Unlimited	Unlimited	Unlimited	-	-	-	-	1500	-	Unlimited	Unlimited	Unlimited	Unlimited
Data included	-	500 MB	1 GB	3 GB	-	-	-	-	30 MB	-	Unlimited	Unlimited	Unlimited	-
Avg. Excess MOUs	-	-	-	-	469	469	469	469	-	-	-	-	-	165
Cost per Min in excess of allowance	-	-	-	-	\$0.033	\$0.033	\$0.033	\$0.033	\$0	\$0	\$0	\$0	\$0	\$0.45
Cost of excess minutes	-	-	-	-	\$15.48	\$15.48	\$15.48	\$15.48	\$0	\$0	\$0	\$0	\$0	\$74.25
Min. Lifeline Plan Cost (per D.10-11-033) or Cost per Plan	\$12.65	\$20.75	\$30.75	\$50.75	\$2.50	\$3.66	\$2.50	\$3.66	\$30.00	\$20.00	\$40.00	\$45.00	\$50.00	\$59.99
Total GO 153 Cost to Customers	\$12.65	\$20.75	\$30.75	\$50.75	\$17.98	\$19.14	\$17.98	\$19.14	\$30.00	\$20.00	\$40.00	\$45.00	\$50.00	\$134.24
Caller ID	\$0.00	\$0.00	\$0.00	\$0.00	\$9.99	\$9.99	\$7.95	\$7.95	-	-	-	-	-	-
Long Distance	\$0.00	\$0.00	\$0.00	\$0.00	\$6.99*	\$6.99*	\$15.99	\$15.99	-	-	-	-	-	-
Voicemail	\$0.00	\$0.00	\$0.00	\$0.00	N/A	N/A	\$7.45	\$7.45	-	-	-	-	-	-
Federal Excise Tax	\$0.00	\$0.00	\$0.00	\$0.00	\$0.08	\$0.11	\$0.08	\$0.11	-	-	-	-	-	-
Total Additional costs of vertical features				\$0.00	\$17.06	\$17.09	\$31.47	\$31.50	-	-	-	-	-	-
Total Cost to Lifeline Customers with 615 MOU and additional costs of vertical features	\$12.65	\$20.75	\$30.75	\$50.75	\$35.04	\$36.23	\$49.45	\$50.64	\$30.00	\$20.00	\$40.00	\$45.00	\$50.00	\$134.24

Plan choices based on AL Supplement 1B filed June 30, 2014

\* Average Minutes of Use (MOU) based on FCC 13-34 16th Mobile Wireless Competition Report issued March 19, 2013, Table 38. Avg MOU 615, Year 2011.

Staff notes that Chart 2, listing current prepaid wireless retail plans, shows that AT&T Wireless, Air Voice’s underlying carrier, charges \$45 for its off-the-shelf unlimited talk, text, and data plan. A low-income customer could sign up directly with AT&T Wireless service and save \$5.75 monthly over Air Voice’s Plan 4. Staff does not find it in the public interest to approve a package that would cost a Lifeline customer more than a similar off-the-shelf retail offering and recommends that the Commission reject Air Voice’s Plan 4, the *Unlimited Talk and Text* with 3 GB data. Plans 1, 2, and 3 offer better value to a Lifeline customer with choices to fit individual needs and budget.

**Due Diligence Review:**

An integral part of CD’s processing of an ETC designation request is a due diligence review of the requesting carrier as a supplement to the public interest analysis to determine if the carrier has engaged in behavior that may call into question its fitness to be granted ETC designation to serve California consumers. The due diligence review includes, but is not limited to, confirming that a company is current with payment of California Public Utilities Commission Reimbursement Fees (referred to as PUC User Fees)<sup>31</sup> and surcharges<sup>32</sup> as required to maintain its operating authority. In addition, CD conducts independent research about a carrier to provide the Commission with

<sup>31</sup> PU Code §§ 401, 405, and 431.

<sup>32</sup> PU Code §§ 275-279.

background information that may be pertinent in deciding whether or not to grant the ETC designation request. Typical research methods are performing Lexis/Nexis legal resource searches, Google Internet searches, reviewing industry and trade publications, querying other governmental agencies (e.g. California Secretary of State for business registration), contacting the FCC and USAC, reviewing a company's history of operations, and contacting the Commission's Safety and Enforcement Division and Consumer Affairs Branch.

To continue its commitment to reduce waste, fraud, and abuse of the Lifeline program, CD requested data from Air Voice related to its recent history of duplicate enrollments to verify whether the company had effective internal controls and processes in place that identify duplicate sign ups. Air Voice had an intra-company duplicate rate of 0.09% based on its initial submission of Lifeline subscriber data in April 2014 to the National Lifeline Accountability Database (NLAD). CD believes that this is a very low error rate and reflects that the carrier's intra-company duplication errors are minimal. We also note that on a going-forward basis, the NLAD process will prohibit companies from entering the same name twice by blocking duplicate enrollment attempts via live Internet connections. Additionally, California's third party administrator has a system in place to verify new enrollments against existing California Lifeline subscribers to prevent duplicates from occurring on the front-end of the sign-up process.

CD's due diligence review of Air Voice did not uncover any fitness issues to deny approval of Air Voice's ETC request. We, therefore, believe Air Voice's ETC request is consistent with the public interest. Air Voice, however, is put on notice that should substantive issues emerge after this ETC is approved which raises public interest questions about Air Voice's operations, the Commission may pursue an enforcement action which may include fines, penalties, and the revocation of ETC designation and/or wireless identification registration authority.

**Safety Concerns:**

Although wireless phone service offers great mobility for consumers, there are safety concerns related to wireless mobile phone service and E-911 and/or 911 connection limitations. Where there is a lack of coverage, poor signal strength, or atmospheric or terrain conditions that affect connections, emergency calls may not be completed. In rural areas, for example, with spotty connectivity or interference (e.g. due to geographic or structural obstacles), wireless mobile resellers of wholesale facilities service cannot guarantee full, accessible emergency connections for their own direct customers. An incomplete emergency call can have devastating results. Given that E-911 and/or 911 safety is a common concern for all of California's wireless customers, CD staff recommends that Air Voice be required to fully and clearly inform prospective federal Lifeline wireless customers about safety concerns related to coverage limitations that may affect wireless mobile phone service access to E-911 and/or 911 in the event of an emergency. Such disclosures include, but are not limited to, printing clear statements on all marketing materials and postings on the company website in the form of information

content on webpages, footnotes, and/or listings on a *frequently asked questions* (FAQ) webpage.

**Changes to Federal Lifeline Wireless Plans:**

Regarding changes to federal Lifeline wireless plan offerings, the prior policy has been that a wireless ETC in California must file a Tier II Advice Letter to request approval of any changes to these federal Lifeline wireless rate plans.<sup>33</sup> CD recommends that the Commission apply this rule only to Air Voice's Lifeline *1,000 Minute Plan* which is not based on a retail plan currently available to all prospective customers at the time of filing. Such request shall demonstrate that the change complies with Resolution T-17002, i.e. *Appendix A-Sections II-E: Local Usage* and *II-G. Public Interest Determination*, all applicable GO 153 rules, and pricing rules pursuant to D.10-11-033 or as modified and/or updated by subsequent Decisions and/or Resolutions effective at the time of the request.

For changes to Air Voice's *Unlimited Plans 2* and *3* that are based on retail service offerings available to all prospective customers and not just to Lifeline customers, changes from one retail plan to another retail plan should be handled via an Information-Only filing, consistent and in compliance with General Order 96-B General Rules 3.9, 6.1, and 6.2, and Telecommunications Industry Rule 2. Since Air Voice offers both retail and Lifeline plans, any future changes to Air Voice's California federal Lifeline plans that are based on retail plans shall be noticed via an Information-Only filing.

**Final Conclusions and Staff Recommendations:**

CD staff recommends conditional approval of the federal Lifeline wireless ETC designation Air Voice requests for the purpose of offering federal Lifeline wireless service in California in the service areas of the URF carriers, excluding the Small LEC service areas. CD staff specifically recommends conditional approval for Air Voice to offer these three plans:

- Plan 1: *1,000 Minute Plan* for \$12.65 per month, a retail value of \$21.90 less the \$9.25 federal support
- Plan 2: *Unlimited Talk & Text* with 500 MB data for \$20.75 per month, a retail value of \$30 less the \$9.25 federal support
- Plan 3: *Unlimited Talk & Text* with 1 GB data for \$30.75 per month, a retail value of \$40 less the \$9.25 federal support

CD staff does not recommend approval of Air Voice's Plan 4, *Unlimited Talk & Text* with 3 GB data costing \$50.75 because it would be more expensive than off-the-shelf retail plans (see Chart 2).

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<sup>33</sup> Resolution T-17339 Ordering Paragraph 3.

Designation as a federal Lifeline ETC to commence federal Lifeline wireless operations in California requires full compliance with the following requirements:

- Air Voice will file required annual compliance reports with the FCC and the Commission, as directed;
- Air Voice will comply with 47 C.F.R. § 54.401(d) by filing the required information directly with USAC to certify that its federal Lifeline wireless plan meets federal requirements under the USAC administration. Air Voice is obligated to report within 30 days of receipt from USAC that compliance has been achieved via a letter to the Director of CD including a copy of the information submitted to USAC and a copy of Air Voice's certification of approval from the USAC;
- Air Voice will provide marketing materials to the CPUC California LifeLine staff for review prior to distribution and advertising;
- Air Voice will comply with CPUC User Fee and Public Purpose Program surcharge requirements. Failure to comply with fee and surcharge remittance requirements may lead to enforcement action including, but not limited to, revocation of Air Voice's ETC designation and/or wireless identification registration authority;
- Air Voice will file a copy of updated ZIP+4 code data list with the Director of CD and the California LifeLine Administrator; and,
- Air Voice will post safety-concerns about wireless telephone service coverage limitations on distributed materials and on its company website.

### COMMENTS

In compliance with P.U. Code § 311(g), the Commission emailed a notice letter on July 28, 2014, informing all parties on the eligible telecommunications carrier service list of the availability of this resolution for public comments at the Commission's website [www.cpuc.ca.gov](http://www.cpuc.ca.gov). The notice letter also informed parties that the final conformed resolution adopted by the Commission will be posted and available at this same website.

CD did not receive any comments on this resolution.

### FINDINGS AND CONCLUSIONS

1. Air Voice Wireless, LLC is a nationwide prepaid wireless service provider that uses wholesale network services from AT&T Wireless. Its principal offices are at 2425 Franklin Road, Bloomfield hills, Michigan, 48302.
2. On March 28, 2013, the Commission issued Air Voice Wireless, LLC its Wireless Identification Registration number U-4451-C allowing it to operate as a

Commercial Mobile Radiotelephone Services (CMRS) provider to the public in California.

3. On July 17, 2013, Air Voice Wireless, LLC filed Tier III Advice Letter (AL) 1 requesting ETC designation to receive federal support to provide only federal Lifeline wireless service to consumers under the brand designation "*Feel Safe Wireless*" and proposed a prepaid federal Lifeline wireless plan of 250 minutes for \$0 per month.
4. Air Voice Wireless, LLC only seeks federal Lifeline support and does not seek federal high-cost fund support or California Lifeline fund support.
5. On May 5, 2014, Air Voice Wireless, LLC filed Advice Letter Supplement 1A requesting authority to offer California LifeLine wireless service consistent with Decision (D.)14-01-036.
6. On June 19, 2014, Air Voice Wireless, LLC withdrew Advice Letter Supplement 1A pursuant to General Order 96-B General Rule 7.5.1 which allows supplements to make major changes to the advice letter requesting federal Eligible Telecommunications Carrier designation. The requested relief in Supplement 1A, California LifeLine authority, must be handled in a separate advice letter request.
7. On June 30, 2014, Air Voice Wireless, LLC filed Advice Letter Supplement 1B requesting to remove the *250 Minute Plan* and add the following four Lifeline plans and pricing:
  - Plan 1: *1,000 Minute Plan* for \$12.65 per month, a retail value of \$21.90 less the \$9.25 federal support
  - Plan 2: *Unlimited Talk & Text* with 500 MB data for \$20.75 per month, a retail value of \$30 less the \$9.25 federal support
  - Plan 3: *Unlimited Talk & Text* with 1 GB data for \$30.75 per month, a retail value of \$40 less the \$9.25 federal support
  - Plan 4: *Unlimited Talk & Text* with 3 GB data for \$50.75 per month, a retail value of \$60 less the \$9.25 federal support
8. For customers with the *1,000 Minute Plan*, additional minutes can be purchased as 100 minutes in a \$10 refill or 250 minutes in a \$20 refill. The cost of voice calls in both refills is \$0.10 per minute, text and multimedia messages (MMS) are \$0.10 per minute, and data/web use costs \$0.33 per MB.
9. On July 9, 2014, Air Voice Wireless, LLC filed Advice Letter Supplement 1C correcting its compliance with General Order 153 and requesting waivers from service elements (4), (10), (11), (12), (15), (19), and (20).

10. Communications Division recommends requiring Air Voice, LLC to file federal compliance reports (e.g., Form 481, etc.) annually with the Federal Communications Commission and the Commission as directed.
11. Air Voice Wireless, LLC will file the required service plan information pursuant to 47 C.F.R. § 54.401(d) with the Universal Service Administrative Company (USAC). USAC will review the service plans to ensure they meet the federal Lifeline requirements. Once accepted, a copy of the information submitted to USAC and a copy of Air Voice Wireless, LLC's certification of approval from the USAC shall be provided to the Communications Division Director within 30 days of receipt from USAC.
12. Air Voice Wireless, LLC meets the Federal Communications Commission's Eligible Telecommunications Carrier requirements.
13. Air Voice Wireless, LLC requested a waiver of seven California LifeLine service elements: (4) the ability to receive free incoming calls, (10) customer choice of local flat-rate service or measured-rate service; (11) free provision of one directory listing per year, (12) availability of free white pages telephone directory, (15) free access to 800 and 800-like toll-free numbers, (19) free access to toll-blocking service, and (20) free access to toll-control service.
14. It is reasonable to grant waivers for California LifeLine elements (4), (10), (11), (12), and (15) because they do not apply to wireless service providers but to providers of wireline services; the Commission has granted such waivers in the past. Likewise, it is reasonable to grant waivers to elements (19) and (20) because they do not apply to Air Voice Wireless, LLC's proposed service plans since there is no distinction between local and long distance calling.
15. Air Voice Wireless, LCC commits to comply with General Order 153's application, verification, and renewal processes to establish customer eligibility with the California LifeLine Administrator and will not offer federal Lifeline wireless plans to customers until the California LifeLine Administrator approves their Lifeline eligibility.
16. Air Voice Wireless, LLC will label clearly its wireless offerings as "*federal Lifeline service*" to minimize customer confusion between the California LifeLine and federal Lifeline programs and to provide copies to Communications Division of all marketing materials including, but not limited to, customer service representative scripts, internet marketing, and posters and brochures, for CPUC California LifeLine staff to review and approval prior to publication and distribution. We find this recommendation reasonable and adopt it.
17. Air Voice Wireless, LLC commits to comply with CPUC User Fee and Public Purpose Program surcharge requirements. Failure to comply with fee and

surcharge remittance requirements may lead to enforcement action including, but not limited to, revocation of Air Voice Wireless, LLC's Eligible Telecommunications Carrier designation and/or wireless identification registration authority.

18. Air Voice Wireless, LLC will utilize the ZIP+4 code data of the Small LECs' service areas to ensure that current customers of the Small LECs are not accepted as its federal Lifeline customers. We find this recommendation reasonable and adopt it.
19. Communications Division recommends requiring the Small LECs, within 30 days of the effective date of this resolution, to provide Air Voice Wireless, LLC an updated ZIP+4 code data in their corresponding service areas. Communications Division recommends that the Small LECs also be required to provide, on an as-needed basis, any update to the ZIP+4 code data to Air Voice Wireless, LLC, as with all other wireless designated ETCs in California.
20. Air Voice Wireless, LLC will file a copy of any updated ZIP+4 code data with the Communications Division Director and the California LifeLine Administrator (CLA). The ZIP+4 code data shall be provided in an MS Excel file (xls) format via email to the CD director. The Small LECs shall provide the CLA the ZIP+4 code data in a format specified by the CLA.
21. The Commission should rely on the Small LECs to monitor whether Air Voice Wireless, LLC, or any other wireless carrier, is providing federal Lifeline wireless service to any current Small LECs customers. The Small LECs can raise any related concerns about Air Voice Wireless, LLC, or any other wireless carrier's behavior or practices in the Small LECs' service areas, for Commission review. If the matter cannot be resolved informally, the Small LECs can file a formal complaint with the Commission.
22. Air Voice will file another Tier III advice letter requesting authority to expand its ETC wireless service area consistent with the approach taken in Virgin Mobile's resolution T-17284 (May 5, 2011).
23. Communications Division finds that Air Voice Wireless LLC's proposed federal Lifeline wireless plans meet Federal criteria for public interest determination with increased competitive choice, convenience, security with mobility, ability to purchase additional usage, and ability to send and receive text messages in a prepaid plan.
24. Communications Division finds these Air Voice Wireless, LLC's federal Lifeline wireless plans to have equal or better value in its Lifeline plan pricing for low-income customers:

- Plan 1: *1,000 Minute Plan* for \$12.65 per month, a retail value of \$21.90 less the \$9.25 federal support
  - Plan 2: *Unlimited Talk & Text* with 500 MB data for \$20.75 per month, a retail value of \$30 less the \$9.25 federal support
  - Plan 3: *Unlimited Talk & Text* with 1 GB data for \$30.75 per month, a retail value of \$40 less the \$9.25 federal support
25. Communications Division finds Plan 4, the *Unlimited Talk & Text* with 3 GB data for \$50.75 per month (a retail value of \$60 less the \$9.25 federal support), too expensive when compared to other comparable off-the-shelf plans offered by other wireless carriers and does not recommend approval.
26. Communications Division conducted due diligence reviews to determine Air Voice Wireless, LLC's fitness as it relates to customer protection and found no fitness issues.
27. The Commission may pursue an enforcement action which may include fines, penalties, and the revocation of ETC designation and/or wireless identification registration authority should substantive issues emerge after this ETC is approved which raises public interest questions about Air Voice Wireless, LLC's operations.
28. For public safety reasons, Air Voice Wireless, LLC will inform Lifeline customers of safety concerns related to coverage limitations that may affect wireless mobile service, including E-911/911 emergency calls. Disclosures include, but are not limited to, printing clear statements on all marketing materials and postings on the company website in the form of information content on webpages, footnotes, and/or listings on a *frequently asked questions* (FAQ) webpage.
29. Communications Division recommends that the Commission's Eligible Telecommunications Carrier rule requiring a Tier II Advice Letter to request approval for any future changes to the federal Lifeline wireless plan approved in this Resolution be applied only to Air Voice Wireless, LLC's Lifeline Plan 1 that is not based on a retail plan currently available to all prospective customers at the time of filing. Such request shall demonstrate that the change complies with Resolution T-17002, i.e. *Appendix A-Sections II-E: Local Usage* and *II-G. Public Interest Determination*, all applicable General Order 153 rules, and pricing rules pursuant to Decision 10-11-033 or as modified and/or updated by subsequent Decisions and/or Resolutions effective at the time of the request. We find Communications Division's recommendation reasonable and adopt it.
30. For changes to Air Voice Wireless, LLC's Lifeline Plans 2 and 3 that are based on retail service offerings available to all prospective customers, not just Lifeline customers, changes from one retail plan to another retail plan should be handled

via an Information-Only filing, consistent and in compliance with General Order 96-B General Rules 3.9, 6.1, and 6.2, and Telecommunications Industry Rule 2.

31. On July 28, 2014, the Commission emailed a draft of this resolution to the eligible telecommunications carrier service list for public comments.
32. Communications Division did not receive any comments on this resolution.

**THEREFORE, IT IS ORDERED** that:

1. The Commission conditionally approves Air Voice Wireless, LLC (U-4451-C) to be an eligible telecommunications carrier (ETC) designated to provide federal Lifeline wireless service under the brand designation "*Feel Safe Wireless*" throughout California in the service areas of the uniform regulatory framework carriers, excluding the small local exchange carrier (Small LECs) service areas.
2. Air Voice shall file another Tier III advice letter requesting authority to expand its ETC wireless service area consistent with the approach taken in Virgin Mobile's resolution T-17284 (May 5, 2011).
3. Air Voice Wireless, LLC's ETC designation approval shall be contingent upon the following: 1) Air Voice, LLC shall file required annual compliance reports with the Federal Communications Commission and this Commission, 2) Air Voice Wireless, LLC shall submit to the Communications Division Director a copy of the information submitted to Universal Service Administrative Company and a copy of Air Voice Wireless, LLC's certification of approval from the USAC within 30 days of receipt from USAC of its compliance with 47 C.F.R. § 54.401(d) related to its federal Lifeline wireless plan; 3) the review by the CPUC California LifeLine staff of Air Voice Wireless, LLC's marketing materials prior to distribution and publication; and, 4) Air Voice Wireless, LLC shall note clearly wireless mobility safety content on all distributed federal Lifeline materials and on the company website.
4. Air Voice Wireless, LLC shall offer these three federal Lifeline wireless service plans under the brand designation "*Feel Safe Wireless*":
  - Plan 1: *1,000 Minute Plan* for \$12.65 per month, a retail value of \$21.90 less the \$9.25 federal support
  - Plan 2: *Unlimited Talk & Text* with 500 MB data for \$20.75 per month, a retail value of \$30 less the \$9.25 federal support
  - Plan 3: *Unlimited Talk & Text* with 1 GB data for \$30.75 per month, a retail value of \$40 less the \$9.25 federal supportFor customers with the *1,000 Minute Plan*, additional minutes can be purchased as 100 minutes in a \$10 refill or 250 minutes in a \$20 refill. The cost of voice calls in

both refills is \$0.10 per minute, text and multimedia messages (MMS) are \$0.10 per minute, and data/web use costs \$0.33 per MB.

5. Air Voice Wireless, LLC shall use a Tier II Advice Letter to request approval for any future changes to its federal Lifeline wireless Plan 1 approved in this Resolution because it is not based on a currently available retail plan offering. Such request shall demonstrate that the change complies with Resolution T-17002, i.e. *Appendix A-Sections II-E: Local Usage* and *II-G. Public Interest Determination*, all applicable General Order 153 rules, and pricing rules pursuant to Decision 10-11-033 or as modified and/or updated by subsequent Decisions and/or Resolutions effective at the time of the request.
6. Air Voice Wireless, LLC shall file an Information-Only filing, consistent and in compliance with General Order 96-B General Rules 3.9, 6.1, and 6.2, and Telecommunications Industry Rule 2, for changes to its federal Lifeline Plans 2 and 3 because they are based on retail service offerings available to all prospective customers.
7. Air Voice Wireless, LLC shall comply with General Order 153's enrollment application, verification, and renewal processes under the review of the California LifeLine Administrator which establishes customer eligibility.
8. Air Voice Wireless, LLC shall be authorized waivers for these seven requested service elements of California LifeLine: (4) the ability to receive free incoming calls, (10) customer choice of local flat-rate service or measured-rate service; (11) free provision of one directory listing per year, (12) availability of free white pages telephone directory, (15) free access to 800 and 800-like toll-free numbers, (19) free access to toll-blocking service, and (20) free access to toll-control service.
9. Air Voice Wireless, LLC shall label clearly its offerings as "*federal Lifeline service*" to minimize customer confusion between the California LifeLine and federal Lifeline programs and shall provide copies of all marketing materials including, but not limited to, customer service representative scripts, internet marketing, and posters and brochures for Communications Division's California LifeLine staff review and approval prior to distribution of marketing publications.
10. Air Voice shall post safety-concerns related to coverage limitations that may affect wireless mobile service, including E-911/911 emergency calls, on distributed materials and on its company website.
11. Air Voice Wireless, LLC shall implement the ZIP+4 codes to screen customers and ensure that current customers of the Small LECs are not accepted as federal Lifeline wireless customers with Air Voice Wireless, LLC.

12. The Small LECs shall be required to provide Air Voice Wireless, LLC, within 30 days of the effective date of this Resolution, the same as with all other active wireless ETCs, an updated list of the ZIP+4 code data in their service areas. The Small LECs also shall be required to provide on an as-needed basis any update to the ZIP+4 code data to Air Voice Wireless, LLC, the same as with all other active wireless designated ETCs in California. A copy of any updated ZIP+4 code data shall be filed with the Communications Division Director and the California LifeLine Administrator. The ZIP+4 code data shall be provided in an MS Excel file (.xls) format via email to the Communications Division Director. The Small LECs shall provide the CLA the ZIP+4 code data in a format specified by the CLA.
13. The Small LECs shall monitor for instances where they believe Air Voice Wireless, LLC, as with all other active wireless carriers, is providing federal Lifeline wireless service to any Small LEC customers and can raise related concerns about Air Voice Wireless, LLC.'s, or any other wireless carrier's, behavior or practices in the small LEC service areas for Commission review. If the matter cannot be resolved informally, the Small LECs can file a formal complaint with the Commission.
14. Air Voice Wireless, LLC shall comply with Commission rules and regulations including the reporting and payment of Public Utilities Commission User Fees and Public Purpose Program surcharges. Failure to do so may result in the revocation of its ETC designation and wireless identification registration authority to operate in California.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 28, 2014, the following Commissioners voting favorably thereon:

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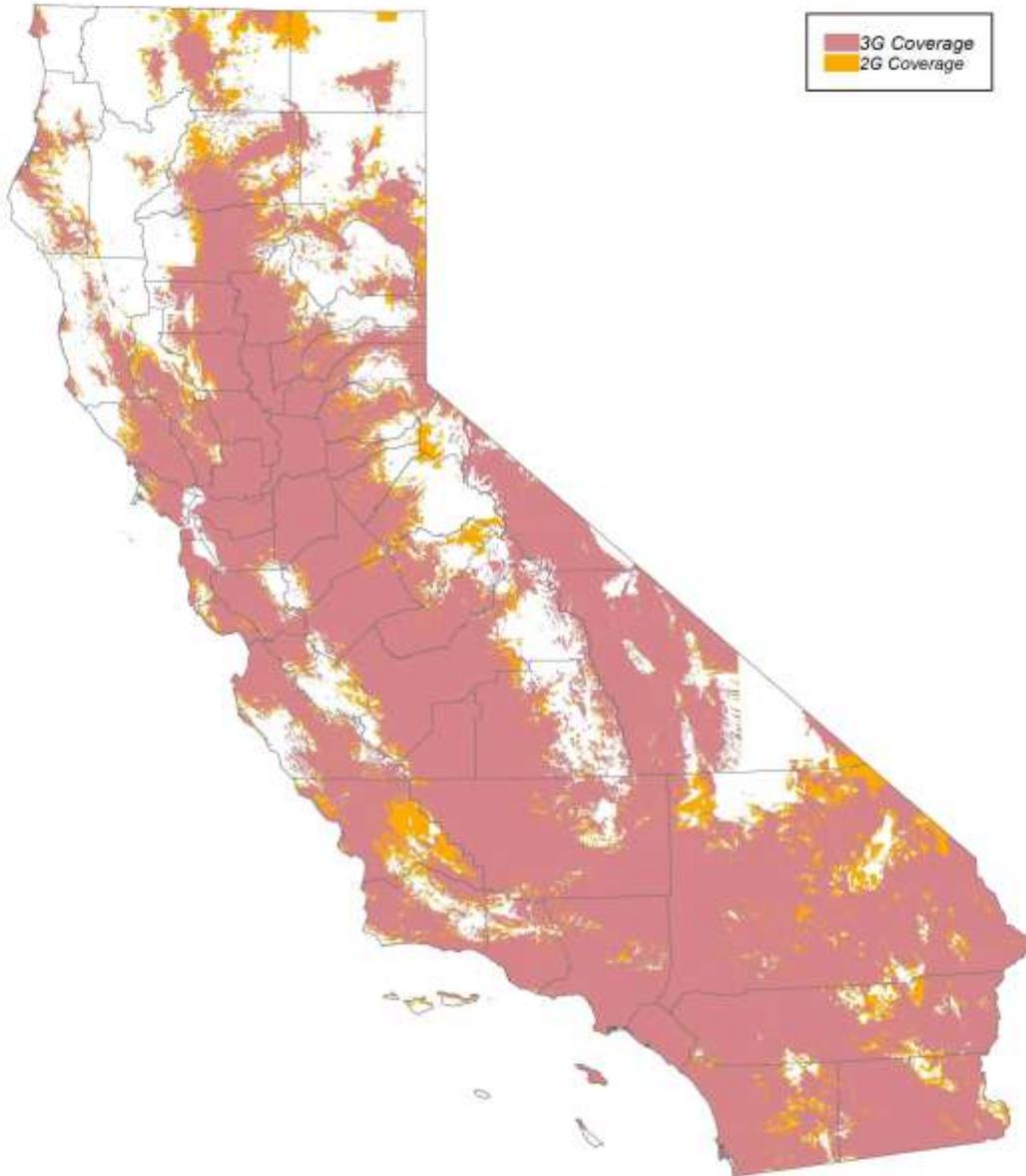
PAUL CLANON  
Executive Director

Resolution T- 17448  
CD/ABA

**APPENDIX A**  
**Resolution T-17448**

**Attachment A**  
**Resolution T-17448**  
**Air Voice Wireless, LLC**

**Proposed Service Area for Federal Lifeline Wireless  
ETC Service in California**



**Attachment B**  
**Resolution T-17448**  
**Air Voice Wireless, Inc.**

**General Order 153 – Service Elements of California LifeLine**

California LifeLine is composed of the service elements set forth below. All California LifeLine subscribers are entitled to receive every one of the service elements of California LifeLine, and every California LifeLine Service Provider is required to offer all of the service elements of California LifeLine to each of its subscribers. The service elements of California LifeLine are as follows:

- 1 Access to (a) single party local exchange service or (b) service that is equivalent, in all substantial respects, to single party local exchange service.
- 2 Access to all interexchange carriers offering service in the California LifeLine subscriber's local exchange.
- 3 Ability to place calls.
- 4 Ability to receive free unlimited incoming calls.
- 5 Free touch-tone dialing.
- 6 Free unlimited access to 911/E-911.
- 7 Access to local directory assistance (DA). Each California LifeLine Service Provider shall offer to its subscribers the same number of free DA calls that the California LifeLine Service Provider provides to its non-California LifeLine residential customers.
- 8 Access to foreign Numbering Plan Areas.
- 9 California LifeLine rates and charges.
- 10 Customer choice of local Flat-Rate Service or Measured-Rate Service. The 14 small ILECs identified in D. 96-10-066 do not have to offer subscribers the choice of local Flat or Measured-Rate Service, unless the small ILEC offers this option to its non-California LifeLine residential customers.
- 11 Free provision of one directory listing per year as provided for in D. 96-02-072.
- 12 Free white pages telephone directory.
- 13 Access to operator service.
- 14 Voice grade connection to the public switched telephone network.
- 15 Free access to 800 or 800-like toll-free services.
- 16 Access to telephone relay services as provided for in Public Utilities Code §2881 et seq.
- 17 Toll-free access to customer service for information about California LifeLine, service activation, service termination, service repair, and bill inquiries.
- 18 Toll-free access to customer service representatives fluent in the same language (English and non-English) in which California LifeLine was originally sold.
- 19 Free access to Toll-Blocking Service.
- 20 Free access to Toll-Control Service but only if (i) the California LifeLine Service Provider is capable of offering Toll-Control Service and (ii) the California LifeLine subscriber has no unpaid bill for toll service.
- 21 Access to two residential telephone lines if a low-income household with a disabled person requires both lines to access California LifeLine.
- 22 Free access to the California Relay Service via the 711 abbreviated dialing code.

GO 153 (Effective December 1, 2011 - D.10-11-033, Resolution T-17321)

**(END OF APPENDIX A)**