

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

**Communications Division  
Carrier Oversight and Programs Branch**

**RESOLUTION T-17339  
October 6, 2011**

**RESOLUTION**

RESOLUTION T-17339. This Resolution grants the request of Telscape Communications, Inc., (U-4380-C) to be designated as an Eligible Telecommunications Carrier to provide wireless federal Lifeline and Link-Up services throughout California in the service areas of the Uniform Regulatory Framework carriers excluding the Small Local Exchange Carriers service areas.

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**SUMMARY**

By this Resolution, the California Public Utilities Commission (CPUC or Commission) grants the request of Telscape Communications, Inc. (U-4380-C) (Telscape wireless<sup>1</sup>) to be designated as an Eligible Telecommunications Carrier (ETC) to provide wireless federal Lifeline and Link-Up services to qualifying customers throughout California in the service areas of the Uniform Regulatory Framework (URF) carriers<sup>2</sup> excluding the Small Local Exchange Carriers (Small LECs)<sup>3</sup> service areas. Telscape wireless' request is consistent with the Resolution T-17002, applicable requirements of General Order (G.O.)

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<sup>1</sup> Telscape Communications also has a license to operate in California as a wireline carrier. The Commission issued a CPCN to Telscape wireless USA, Inc. in 1997. In 2001, Telscape wireless USA was acquired by TCP Acquisition, Inc. In D. 01-10-061, the Commission granted TCP Acquisition its CPCN license to operate as a Competitive Local carrier (CLC) (U-6589-C); the company is currently operating under the name of Telscape Communications, Inc. Telscape Communications filed two separate Advice Letters for ETC designation request for its wireline and wireless entity. Henceforth, because Telscape Communications is requesting ETC designation as a wireless carrier in this Resolution, we refer to Telscape Communications (U-4380-C) as Telscape wireless.

<sup>2</sup> The URF carriers are AT&T California, Verizon California, Surewest Telephone and Frontier Communications of California.

<sup>3</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, have rates that are regulated, and operate in territories that are not officially opened to competition.

153 and applicable requirements for a CPUC certificated or registered carrier. We find that the request is reasonable and consistent with the public interest, and should be granted.

## **BACKGROUND**

Pursuant to federal law, state commissions or the Federal Communications Commission (FCC) designate telephone corporations as ETCs.<sup>4</sup> The FCC then authorizes the ETC to receive federal Universal Service Fund (USF) support for providing 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>5</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.

In Resolution T-17002, the Commission adopted *The Comprehensive Procedures and Guidelines for ETC Designation and Requirements for ETCs* that are consistent with the FCC Orders 97-157 and 05-46 regarding designation of a telephone carrier as a qualified ETC. All carriers seeking ETC designation in California are required to comply with the applicable requirements for a CPUC certificated or registered carrier.

In addition to reviewing ETC designation requests for compliance with the federal and CPUC ETC requirements, the Communications Division (CD) staff reviews the requests for compliance with CPUC California LifeLine rules contained in G.O. 153 and Decision (D.) 10-11-033. CD staff also reviews the request for compliance with other state regulatory requirements for telephone corporations operating in California, including but not limited to reporting and paying Public Utilities Commission (PUC) user fees, Public Purpose Program (PPP) surcharges and submitting required reports.

G.O. 153 implements the Moore Universal Telephone Service Act, and contains California LifeLine service requirements for wireline carriers offering basic residential telephone service in California, including twenty-two elements of California LifeLine service that carriers must provide. CD staff has applied the provisions of G.O. 153 in its

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<sup>4</sup>Section 214 (e)(2) of the Telecommunications Act authorizes state commissions to designate ETC status for federal universal service purposes. Although the CPUC does not have jurisdiction over market entry and rates of wireless carriers, FCC 97-157, ¶ 147 states that “[n]othing in section 214(e)(1), however, requires that a carrier be subject to the jurisdiction of a state commission in order to be designated as an ETC.” Therefore, the CPUC has authority to designate a wireless carrier as an ETC in California.

<sup>5</sup> 47 U.S.C. Section 214(e)

evaluation of wireless ETC designation requests. These provisions will have no bearing on California LifeLine offerings. Until the Commission adopts California LifeLine rules for wireless service providers in Phase II of Rulemaking (R.) 06-05-028 and/or R.09-06-019, all wireless federal Lifeline offerings in California must comply with G.O. 153. Once the CPUC adopts basic service rules (R. 09-06-019) for the offering of wireless California LifeLine, wireless ETCs must comply with those rules.

On November 19, 2010, the Commission adopted D. 10-11-033, which made changes to the California LifeLine program. The decision allows California LifeLine customers to choose alternative/non-traditional providers, such as wireless and Voice over Internet Protocol (VoIP), for California LifeLine service<sup>6</sup> and adopted minimum price floors for California LifeLine offerings. In addition, wireless carriers may offer California LifeLine on a voluntary basis pursuant to D.10-11-033, subject to the afore-mentioned twenty-two service elements listed in Appendix A of G.O. 153.

Telscape wireless, a facilities-based wireless service provider, is a California based company with principal offices at 355 S. Grand Ave. Ste 3100, Los Angeles, California 90071. On June 20, 2008, the Commission issued Telscape wireless its Wireless Identification Registration (WIR) number U-4380-C allowing it to operate as a reseller of Commercial Mobile Radiotelephone Services (CMRS) to the public in California. Telscape wireless has complied with the regulatory requirements for telephone corporations operating in California including, but not limited to, reporting and payment of PUC user fees, PPP surcharges and submitting required reports.

### **SUBJECT OF ADVICE LETTER/FILING**

On May 31, 2011, Telscape wireless filed its Tier III Advice Letter (AL) No. 1, requesting limited ETC status for the purpose of offering federal Lifeline and Link-Up services throughout California in the service areas of the URF carriers excluding the Small LECs' service areas. Telscape wireless is not seeking federal High-Cost Fund Support. In the AL No. 1, Telscape wireless provided information to comply with the requirements for ETC designation adopted in Resolution T-17002. Telscape wireless also provided information regarding its compliance with G.O. 153 including but not limited to providing its proposed wireless federal Lifeline service offerings.

On June 20, 2011, Telscape wireless filed AL supplement No. 1A, only to change the number of the advice letter it had previously filed to AL No. 1 instead of AL No. 80. The content of the AL was unchanged by the supplement.

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<sup>6</sup> See D. 10-11-033, mimeo, at 72

On July 7, 2011, Telscape wireless filed AL supplement No. 1B to clarify that it does not seek to participate in the California LifeLine program and will not be requesting any reimbursement from the California LifeLine Fund with respect to providing wireless federal Lifeline service to eligible, low-income, wireless customers. In addition, Telscape wireless provided further description of how it will comply with G.O. 153 and clarified how it intends to label its plans to avoid confusion by potential customers. Telscape wireless also provided a comparison of Telscape wireless' proposed wireless Federal Lifeline plans with Telscape wireless existing retail wireless plans, as well as the off-the-shelf plans of other wireless carriers.

### **NOTICE/PROTEST**

In compliance with G.O. 96-B, Telscape wireless' AL No. 1, supplement Nos. 1A and 1B were posted on the CPUC Daily Calendar on June 17, 2011, June 29, 2011 and July 15, 2011, respectively. The AL and supplement s were served via email on May 27, 2011, June 17, 2011 and July 7, 2011, respectively, to the AL's service list.

No Protests were received.

### **DISCUSSION**

#### **Compliance with Resolution T-17002**

In order for the Commission to grant Telscape wireless' request to be designated as an ETC, Telscape wireless has to satisfy the requirements for designation as an ETC pursuant to Resolution T-17002, *The Comprehensive Procedures and Guidelines for ETC Designation*. Telscape wireless' ALs provided information required in Appendix A of Resolution T-17002. Telscape wireless only seeks to participate in the federal Lifeline and Link-Up program and does not intend to draw from the federal High-Cost Fund program. Therefore, Telscape wireless is not required to meet the requirements contained in Appendix A: Section II-B: *Two-Year Service Quality Improvement Plan*, and in Appendix B: *Comprehensive Reporting Requirements for ETCs to receive federal High-Cost Support* to Resolution T-17002.

CD staff has reviewed Telscape wireless' AL and supplements, and determined that Telscape wireless has satisfied the applicable requirements in Resolution T-17002 regarding ETC designation for federal Lifeline and Link-Up support, e.g., requirements to submit maps, a commitment to provide the services supported by the USF, a demonstration of its ability to remain functional in an emergency situation, and a commitment to satisfy consumer protection and service quality standards.

Telscape wireless offers the services designated by the FCC<sup>7</sup> in the service areas where it plans to be eligible to receive federal Lifeline and Link-Up support. Telscape wireless would provide its wireless federal Lifeline service offerings throughout California, excluding the Small LECs' service areas. Telscape wireless would provide these services using a combination of its own facilities and resale of the services of another wireless carrier, i.e., Sprint. The designated services include the following:

- 1) Single party service;
- 2) Voice grade access to the public switched network;
- 3) Local usage;
- 4) Dual tone multi-frequency signaling or its functional equivalent;
- 5) Access to emergency services;
- 6) Access to operator services;
- 7) Access to interexchange services;
- 8) Access to directory assistance; and
- 9) Toll limitation for qualifying low-income consumers.

As a designated ETC, Telscape wireless commits to using media of general distribution to comply with Appendix A: Section I –E of Resolution T-17002 and Title 47 Code of Federal Regulations (C.F.R.) Section 54.201. Telscape wireless also commits to advertizing the availability of the supported services to the general public within its designated ETC service areas through the use of print ads, commercial radio, online social media/networking sites, and its retail store locations. In addition, Telscape wireless pledges that it would clearly distinguish in its advertising and marketing its wireless federal Lifeline service offering from its California LifeLine services. It also committed to continue working with CPUC California LifeLine staff in developing appropriate advertising materials promoting Telscape wireless' wireless federal Lifeline service offerings. Telscape wireless proposed to label its service offering as "Federal Lifeline/Link-Up".<sup>8</sup>

CD recommends that Telscape wireless be required to clearly label its offering as federal Lifeline to minimize customer confusion between the California LifeLine and federal Lifeline programs. Prior to publication and providing wireless federal Lifeline service, CD recommends that Telscape wireless be required to provide the CPUC California LifeLine team copies of all marketing materials, including but not limited to customer service representative scripts, internet marketing, posters and brochures, for review and approval.

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<sup>7</sup> 47 U.S.C. § 214(e)

<sup>8</sup> Telscape wireless Advice Letter supplement 1B, p.2

CD also recommends that Telscape wireless file another ETC designation request if it plans to expand its service area designation to include service areas not covered by this Resolution.

### **Comparable Local Usage**

Neither the CPUC nor the FCC has adopted minimum local usage standards or number of minutes to measure comparability. However, the FCC encourages state commissions to consider whether an ETC offers a local usage plan comparable to those offered by the incumbents in examining whether the ETC applicant provides adequate local usage to receive designation as an ETC. The FCC has not prevented states from determining the minimum number of local usage minutes for an applicant to be awarded ETC status.<sup>9</sup>

Consequently, CD used G.O. 153 call allowance rules and D.10-11-033 pricing rules for Measured Rate (MR) California LifeLine service as a baseline in evaluating Telscape wireless' request regarding the comparable local usage requirement. In Resolution T-17266, Ordering Paragraph (O.P.) 3, the Commission approved the use of G.O. 153 for evaluating wireless carriers' requests for ETC designation.

Telscape wireless has proposed the following wireless federal Lifeline service offerings for California:

Plan 1: 300 minutes for \$2.50 per month

Plan 2: 1100 minutes for \$20.00 per month

Telscape wireless' proposed wireless federal Lifeline service offerings include free custom calling features: nationwide long distance, caller I.D., voicemail, call waiting, and 3-way calling. Each text message is assessed at a rate of 1 minute per 1 text message sent or received. Telscape wireless would also provide a free refurbished handset to eligible customers.

Telscape wireless proposed an activation charge for its retail wireless service of \$62.00. However, eligible wireless federal lifeline customers would be charged a discounted rate of \$30 for the activation charge with an option of deferring payment over a twelve-month period with no interest. Customers also would be allowed to purchase additional time with a minimum purchase of 200 minutes (\$0.03 per minute). Directory Assistance (DA) would be charged at \$1.50 per call and customers would be charged usage minutes.

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<sup>9</sup> FCC 05-46, ¶ 34

Consistent with the comparable local usage analysis used in Nexus wireless and Virgin mobile ETC designation Resolutions,<sup>10</sup> CD concludes that Telscape wireless proposed wireless federal Lifeline service offerings are comparable to the Incumbent Local Exchange Carriers (ILEC) MR California Lifeline service and the approved wireless ETC service already being offered in California.<sup>11</sup> The table below shows a comparison of the service offerings with ILEC MR California LifeLine service offerings.

**Table 1: Estimated Cost of Telscape wireless' Proposed Wireless federal Lifeline Service Offerings Compared to G.O. 153 ILEC MR Calculated Costs for 769 MOU**

	<b>Telscape wireless 300 Minutes for \$2.50</b>	<b>Telscape wireless 1100 minute for \$20.00</b>	<b>AT&amp;T Estimate per G.O. 153<sup>12</sup></b>	<b>Verizon Estimate per G.O. 153</b>
<b>Lifeline Plan Cost to Customer with 769 MOU<sup>13</sup></b>	\$16.57	\$20.00	\$23.07 to \$24.23	\$23.07 to \$24.23
<b>Caller ID, Call Waiting, Long Distance, Voicemail and Tax Cost</b>	\$0	\$0	\$17.06 to \$17.09	\$31.47 to \$31.50
<b>Total Cost to Lifeline Customer for 769 MOU with additional features</b>	\$ 16.57	\$20.00	\$ 40.12 to \$41.32	\$ 54.53 to \$55.73

CD believes that Telscape wireless' proposed wireless federal Lifeline service offerings would provide customers significant cost savings over the off-the-shelf retail wireless Telscape wireless plans that are available. Therefore, CD recommends the approval of Telscape wireless' two proposed wireless federal Lifeline service offerings: Plan 1 - 300 minutes for \$2.50 and Plan 2 - \$1100 minutes for \$20.00.<sup>14</sup>

<sup>10</sup> Resolution T-17258, Nexus Wireless ETC designation in California, pp. 6-10, and Resolution T-17284, Virgin Mobile ETC designation in California, pp. 6-9

<sup>11</sup> Telscape wireless Advice Letter Supplement 1B, Attachment 6 (*see* Attachment A of this Resolution)

<sup>12</sup> Price range reflects California LifeLine MR \$2.50 floor and \$3.66 cap prices established in D. 10-11-033. CD could not find an AT&T package that contained all the elements Telscape has included in its packages. Neither AT&T nor Verizon packages include Call Waiting.

<sup>13</sup> 769 MOU reflects calculated average local wireless usage based upon FCC and CTIA Data. CD used wireless MOU, average bill, and average revenue per MOU data for the six-month period ending December 31, 2008 from Table 19 of the FCC's 14<sup>th</sup> Mobile Wireless Competition Report to Congress (14<sup>th</sup> Report) and data for the same period from the Cellular Telecommunications Industry Association's (CTIA) Semi-Annual Wireless Industry Survey. CD used the 2008 data because the FCC data ended then, even though the CTIA data continued through the six-month period ending June 30, 2010.

<sup>14</sup> Telscape wireless Advice Letter Supplement 1B, Attachment 6 (*see* Attachment A of this Resolution)

CD considers it important to ensure that low-income customers will continue to receive adequate wireless service at a reasonable price. Therefore, CD recommends that Telscape wireless' and other existing wireless ETC in California be required to file a Tier II Advice Letter<sup>15</sup> in order to obtain approval of any changes to its approved wireless federal Lifeline rate plans included in its respective Resolutions that granted ETC designation. Such a 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 G.O 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.

### **Public Interest Determination**

Before designating a carrier as an ETC, the Commission must determine that doing so would be in the public interest.<sup>16</sup> CD staff believes that Telscape wireless has demonstrated that it would be in the public interest for the company to be designated as an ETC. Telscape wireless has met the requirements in Appendix A: Section II - G: *Public Interest Determination* of Resolution T-17002 by the following: a) demonstrating the ETC designation will increase consumer choices; b) explaining the advantages and disadvantages of its service offerings; and c) showing the absence of cream skimming.<sup>17</sup>

#### **a. The ETC designation will increase consumer choices**

Telscape wireless' ETC designation would increase consumer choices for Spanish-speaking, limited-English speaking and low-income Southern California wireless consumers. Telscape wireless would offer very competitively priced plans which allow customers, especially low-income customers, to make the most of their money during difficult economic times.

#### **b. The advantages and disadvantages of its service offerings**

CD staff recognizes that Telscape wireless will gain certain advantages in being designated as an ETC, specifically by gaining eligibility to receive federal subsidized wireless service. The advantages of Telscape wireless' offerings outweigh the disadvantages. The advantages to Telscape wireless' service offerings include free custom calling features such as nationwide long distance, caller I.D., voicemail, call

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<sup>15</sup> G.O. 96-B

<sup>16</sup> FCC 05-46, paragraph 40, CPUC Resolution T-17002 Appendix A, Section II-G: Public Interest Determination

<sup>17</sup> *Virginia Cellular Order*, *supra* note 18, para. 32 n.102 (citation omitted). *See also Highland Cellular Order*, *supra* note 28, para. 26: "Creamskimming" refers to the practice of targeting only the customers that are the least expensive to serve, thereby undercutting the ILEC's ability to provide service throughout the area."



waiting, 3-way calling. Telscape would also provide a free refurbished handset to eligible customers. Telscape wireless also has tailored its service offerings to meet the specific needs of their customers, e.g., face-to-face or in-store transaction methods for learning about the products and services, and bill payments.

The disadvantages of a wireless Lifeline service offering includes the potential that the customers will have poor mobile reception due to weather conditions, terrain, or gaps in service coverage. CD believes that customers can exercise judgment in determining whether Telscape wireless' wireless service meets the needs given the customer's specific circumstances and location. To assist customers in their decision making, CD recommends that Telscape wireless provide adequate information to its customers through its wireless federal Lifeline advertising about the potential coverage and service quality issues customers may encounter if the customer opt to select a wireless federal Lifeline service offering versus a California LifeLine wireline service.

### **c. The absence of creamskimming**

Creamskimming is not an issue with Telscape wireless' request to be designated as an ETC because it is not requesting federal High-Cost support. Telscape wireless' designation as an ETC will not increase the amount of funding drawn from the federal Universal Service fund, unless it attracts additional new low-income customers.

In addition to the public interest criteria the FCC established, CD considered the total cost of each of Telscape wireless' proposed service offerings to low-income customers using an average estimate of MOU per month. Telscape wireless' proposed wireless federal Lifeline service offerings are in the public interest because it offers the Lifeline customer significant cost savings over the off-the-shelf retail offerings available.

CD believes that it is also in the public interest to ensure that all telephone corporations operating in California comply with other state regulatory requirements, including but not limited to reporting and paying PUC user fees, PPP surcharges, and submitting required reports. Telscape wireless has complied with the regulatory requirements for telephone corporations operating in California including, but not limited to, reporting and payment of PUC user fees, PPP surcharges and submitting required reports.

CD concludes that Telscape wireless' request is in the public interest. In addition, CD recommends that Telscape wireless be required to continue complying with all applicable Commission rules, including the reporting and payment of PUC user fees and PPP surcharges. Failure to do so may result in revocation of ETC designation and wireless registration in California.

### **G.O. 153 Basic Service Elements Compliance**

Telscape wireless' service offerings do not meet six of the twenty-two basic service elements of California LifeLine set forth in G.O. 153 (*see* Attachment B of this Resolution for a complete list). Telscape wireless has requested a waiver from the following requirements:

1. Ability to receive free incoming calls
2. Customer choice of flat rate local service or measured rate local service
3. Free provision of one directory listing per year
4. Free white pages telephone directory
5. Free access to Directory Assistance (DA) calls
6. Free access to 800 and 800-like toll-free numbers

Telscape wireless proposed to charge its wireless federal Lifeline customers \$1.50 for each DA calls. In addition, customers would incur usage minutes during the DA calls. Although Telscape wireless is providing free access to 800 and 800-like toll-free numbers, customers would incur usage minutes for these types of calls.

Consistent with the Commission's findings in the Nexus wireless and Virgin Mobile ETC designation Resolutions,<sup>18</sup> CD recommends that Telscape wireless be authorized to waive the six basic service elements of California LifeLine listed above with respect to its wireless federal Lifeline services only until such time that the Commission has established additional basic service rules for wireless in the current California LifeLine and/or California High-Cost Fund B rulemaking proceeding.<sup>19</sup> The authorized waiver will have no bearing on California LifeLine offerings.

**Compliance with G.O. 153 Application and Renewal Requirements, and Demonstrating how it will Exclude Wireless Federal Lifeline Subsidies to Small LECs Customers**

CD believes that G.O. 153 § 4.2 California LifeLine enrollment procedures provide a reasonable means for wireless carriers to determine if a prospective low-income customer is eligible for wireless federal Lifeline service. Therefore, until the Commission establishes rules for wireless ETC applicants in California, CD

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<sup>18</sup> Resolution T-17258, Nexus Wireless ETC designation in California, pp. 11-13 and Resolution T-17284, Virgin Mobile ETC designation in California, pp. 12-14

<sup>19</sup> R.09-06-019

recommends that G.O. 153 California LifeLine application and renewal rules continue to be used in evaluating wireless carrier ETC designation requests.

G.O. 153 requires that a renewal form be sent annually to California LifeLine customer to determine continued eligibility.<sup>20</sup> In California, application and renewal functions are performed by the California LifeLine Administrator (CLA).<sup>21</sup> CD recommends that Telscape wireless be required to comply with G.O. 153 requirements, including the enrollment, and CLA application and renewal processes, and that Telscape wireless not provide wireless federal Lifeline service until the low-income customer has been enrolled by the CLA.

Telscape wireless does not seek ETC designation in the service areas of the Small LECs. Consistent with Resolution T-17284, Telscape wireless requests that the Commission order the Small LECs to provide a list of the zip code + four<sup>22</sup> associated with the Small LECs service areas. Telscape wireless will utilize the data to ensure that it is not providing services to customers residing in the Small LECs services areas.

CD recommends that Telscape wireless be required to comply with requirements in G.O. 153 pertaining to Lifeline enrollment, as well as the CLA certification and verification processes. CD also recommends that the Small LECs be required to provide Telscape wireless and all current wireless ETCs an updated zip code + four data of the Small LECs service areas<sup>23</sup> within 30 days of the effective date of this Resolution. The Small LECs shall also be required to provide, on an as-needed basis, any update to the zip code + four data to Telscape wireless and all other wireless designated ETCs in California. A copy of any updated zip code + four data shall be filed with the CD Director and the CLA. The zip code + four 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 code + four data in a format specified by the CLA.

CD considers that it is appropriate for the Commission to rely on the Small LECs to monitor for instances where they believe Telscape wireless or any other wireless carrier providing wireless federal Lifeline services to any Small LECs customers. Should such instances arise the Small LECs can raise any related concerns about Telscape wireless or

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<sup>20</sup> G.O. 153, §§ 4.4 and 4.5

<sup>21</sup> G.O. 153, § 4.2.1. The current California LifeLine Administrator is Solix.

<sup>22</sup> Zip code + four is the standard Zip Code with a four digit add-on code. This ad-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 Code + four for the Small LEC service areas.

<sup>23</sup> On July 5, 2011, the Small LECs filed with the CPUC the zip code + four data pursuant to Resolution T-17284. On July 6, 2011, Frontier Communications West Coast, Inc. filed the zip code + four data for its service areas pursuant to T-17284.

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.

### **Universal Service Administrative Company (USAC) Certification Requirements**

Upon approval of this Resolution, CD recommends that Telscape wireless be required to file information with the USAC, pursuant to 47 C.F.R. Section 54.401 (d), demonstrating that its wireless federal Lifeline service meets the FCC requirements, and stating the number of qualifying low-income customers and the amount of state assistance (if applicable). CD recommends that a copy of Telscape wireless' certification with the USAC be provided to the CD Director within 30 days of receipt from USAC by Telscape wireless.

The Commission concurs with CD's recommendations in this Resolution and grants Telscape wireless' request for ETC designation for the purpose of offering federal Lifeline and Link-Up services throughout California in the service areas of the URF carriers excluding the Small LEC service areas.

### **COMMENTS**

Public Utilities (P.U.) Code Section 311(g)(1) requires that the Commission (1) serve a draft Resolution on all parties, and (2) make that draft Resolution available for public review and comment for a period of 30 days or more, prior to a vote of the Commission on the Resolution. On September 6, 2011, the Commission distributed a draft of this Resolution for comments to the service list attached to this Resolution (*see* Attachment C for Resolution T-17339 service List).

### **FINDINGS**

1. On May 31, 2011, Telscape wireless Communications, Inc. (U-4327-C) filed AL 1 requesting ETC designation to provide wireless federal Lifeline and Link-Up services to qualifying customers throughout California in the service areas of the URF carriers excluding the Small LECs service areas.
2. On June 20, 2011, Telscape wireless filed AL supplement No. 1A only to change the number of the advice letter it had previously filed to AL No. 1 instead of AL No. 80.

3. On July 7, 2011, Telscape wireless filed AL supplement 1B to provide additional information to comply with the ETC designation requirements.
4. Telscape wireless is a facilities-based wireless service provider in California with principal offices at 355 S. Grand Ave. Ste 3100, Los Angeles, California 90071. On June 20, 2008, the Commission issued a Telscape wireless its WIR U-4380-C allowing it to operate as a reseller of CMRS to the public in California.
5. Telscape wireless has complied with the 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.
6. Telscape wireless has met all the requirements for federal Lifeline and Link-Up ETC status throughout California excluding the Small LECs service area found in Resolution T-17002, e.g., requirements to submit maps, a commitment to provide the services supported by the USF, a demonstration of its ability to remain functional in an emergency situation, and a commitment to satisfy consumer protection and service quality standards.
7. Telscape wireless will provide USF supported services through a combination of its own facilities and the resale of another carrier's service.
8. Telscape wireless is not seeking federal High-Cost Fund Support or California LifeLine fund support.
9. Telscape wireless proposed to offer two wireless federal Lifeline services: Plan 1 - 300 minutes for \$2.50 and Plan 2 - 1100 minutes for \$20.00.
10. CD recommends that Telscape wireless' and other existing wireless ETC in California be required to file a Tier II Advice Letter to obtain approval of any changes to its approved wireless federal Lifeline rate plans included in its respective Resolutions that granted ETC designation. Such a 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 G.O 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.
11. CD recommends that Telscape wireless' request to be designated as an ETC to offer wireless federal Lifeline and Link-Up services throughout California in the service areas of the URF carriers excluding the Small LECs service areas is in the public interest.

12. It is reasonable to use Commission rules and policies for California LifeLine service, including D. 10-11-033 and G.O. 153 for evaluating ETC designation requests, including federal Lifeline offerings by wireless carriers until the Commission adopts specific rules for wireless Lifeline offerings.
13. Telscape wireless requests a waiver to the six basic service elements of California LifeLine related to: (1) the ability to receive free incoming calls, (2) a customer choice of flat rate local service or measured rate local service, (3) free provision of one directory listing per year, (4) availability of free white pages telephone directory, (5) free access to Directory Assistance (DA) calls and (6) free access to 800 and 800-like toll-free numbers.
14. CD recommends authorizing Telscape wireless a waiver from the six basic service elements of California LifeLine, as described above, until such time that the Commission has established additional basic service rules in the current California LifeLine and California High-Cost Fund B rulemaking proceedings. The authorized waiver will have no bearing on California LifeLine offerings.
15. CD recommends requiring Telscape wireless to comply with G.O. 153's application and renewal processes to establish customer's eligibility, and not be allowed to begin to offer wireless federal Lifeline service to customers until the application and renewal process has been put into place with CLA and is operational.
16. CD recommends requiring Telscape wireless to clearly label its wireless federal Lifeline services to minimize customer confusion between the California LifeLine and federal Lifeline programs, include adequate information about the potential coverage and service quality issues, and to provide copies of all marketing materials, including but not limited to customer service representative scripts, internet marketing, posters and brochures, to CPUC California LifeLine staff for review and approval prior to publication and providing wireless federal Lifeline service.
17. CD recommends requiring Telscape wireless to utilize the zip code + four data of the Small LECs service areas to ensure that current customers of the Small LECs are not accepted as Telscape wireless federal Lifeline customers.
18. CD recommends requiring the Small LECs to provide Telscape wireless and all wireless ETCs an updated zip code + four data in its service area within 30 days of the effective date of this Resolution. CD recommends that the Small LECs also be required to provide, on an as-needed basis, any update to the zip code + four

data to Telscape wireless and all other wireless designated ETCs in California. A copy of any updated zip code + four data shall be filed with the CD Director and the CLA. The zip code + four 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 code + four data in a format specified by the CLA.

19. CD recommends requiring the Small LECs to monitor for instances where they believe Telscape wireless or any other wireless carrier providing wireless federal Lifeline services to any Small LECs customers. The Small LECs can raise any related concerns about Telscape wireless 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.
20. CD recommends that Telscape wireless be required to provide the CD Director within 30 days of receipt from Universal Service Administrative Company (USAC) a copy of Telscape wireless' certification with the USAC.
21. CD recommends that Telscape wireless' continuing wireless registration and ETC designation be dependent upon Telscape wireless complying with Commission rules, including continuing to report and pay PUC user fees and PPP surcharges.
22. On September 6, 2011, the Commission distributed a draft of this Resolution for comments to the Resolution T-17339 Service List (*see* Attachment C).

**THEREFORE, IT IS ORDERED** that:

1. Telscape Communications, Inc. (U-4380-C) (Telscape wireless) request for Eligible Telecommunications Carrier (ETC) designation to provide wireless federal Lifeline and Link-Up services throughout California in the service areas of the Uniform Regulatory Framework (URF) carriers excluding the Small Local Exchange Carrier (Small LECs) service areas is granted.
2. Telscape wireless shall only offer the two wireless federal Lifeline service offerings: Plan 1 - 300 minutes for \$2.50 and Plan 2 - 1100 minutes for \$20.00.
3. Telscape wireless' and other existing wireless ETC in California shall be required to file a Tier II Advice Letter to obtain approval of any changes to its approved wireless federal Lifeline service offerings included in its respective Resolutions that granted its ETC designation. The 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 G.O 153 rules and pricing rules pursuant to Decision (D.) 10-11-033 or as modified and or updated by subsequent Decisions and/or Resolutions effective at the time of the request.

4. Until the Commission adopts specific rules for wireless Lifeline offerings, General Order (G.O.) 153 shall continue to be used in evaluating ETC designation requests by wireless carriers, including federal Lifeline application and renewal. Once the Commission adopts wireless specific Lifeline rules, Telscape wireless shall be required to comply with those rules.
5. Telscape wireless shall comply with G.O. 153's enrollment application and renewal processes to establish customer's eligibility, and not be allowed to begin to offer wireless federal Lifeline service to customers until the application and renewal process has been put into place with the CLA and is operational.
6. Telscape wireless shall be authorized a waiver from the six basic service elements of California LifeLine related to: (1) the ability to receive free incoming calls, (2) a customer choice of flat rate local service or measured rate local service, (3) free provision of one directory listing per year, (4) availability of free white pages telephone directory, (5) free access to Directory Assistance (DA) calls and (6) free access to 800 and 800-like toll-free numbers, until such time that the Commission has established additional basic service rules for wireless in the current California LifeLine and/or California High-Cost Fund B rulemaking proceeding. The authorized waiver will have no bearing on California LifeLine offerings.
7. Telscape wireless shall clearly label its offering as wireless federal Lifeline to minimize customer confusion between the California LifeLine and federal Lifeline programs, include adequate information about the potential coverage and service quality issues, and provide copies of all marketing materials, including but not limited to customer service representative scripts, internet marketing, posters and brochures, to CPUC California LifeLine staff for review and approval prior to publication and providing wireless federal Lifeline service.
8. Telscape wireless shall implement the zip+4 codes to screen customers and ensure that current customers of the Small LECs are not accepted as Telscape wireless federal Lifeline customers.
9. The Small LECs shall be required to provide Telscape wireless and all wireless ETCs an updated list of the zip code + four data in its service area within 30 days of the effective date of this Resolution. The Small LECs shall also be required to provide, on an as-needed basis, any update to the zip code+ four data to Telscape



wireless and all other wireless designated ETCs in California. A copy of any updated zip code + four data shall be filed with the Communications Division (CD) Director and the California LifeLine Administrator (CLA). The zip code + four 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 code + four data in a format specified by the CLA.

10. The Small LECs shall monitor for instances where they believe Telscape wireless or any other wireless carrier providing wireless federal Lifeline services to any Small LECs customers. The Small LECs can raise any related concerns about Telscape wireless 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.
11. Telscape wireless shall provide the CD Director within 30 days of receipt from Universal Service Administrative Company (USAC) a copy of Telscape wireless' certification with the USAC.
12. Telscape wireless shall comply with Commission rules, including the reporting and payment of Public Utilities Commission (PUC) user fees and Public Purpose Program (PPP) surcharges. Failure to do so may result in revocation of ETC designation and wireless registration 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 October 6, 2011, the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

**ATTACHMENT A**

Telscape wireless Advice Letter Supplement 1B, Attachment 6



	Telscape Proposed Federal Lifeline Plans		Current Telscape Pre-Paid Wireless Plans (Non-Lifeline)			Retail "Off the Shelf" Pre-Paid Wireless Plans*					
	Telscape 300	Telscape 1100	Telscape 300	Telscape 625	Telscape 1000	Virgin Mobile: Pay Lo 1500	Nexus dba Reach Out Wireless Simple Plan 1000	Metro PCS: Unlimited	AT&T Go Phone: unlimited talk and text	Sprint Talk: 450	Verizon Talk: 450
Avg. MOU*	769	769	769	769	769	769	769	769	769	769	769
Basic Plan Minutes (allowance)	300	1100	300	625	1000	1500	1000	Unlimited	Unlimited	450	450
Avg. Excess MOUs	469	0	469	144	0	0	0	0	0	319	319
Cost per Min in excess of allowance	\$0.03	\$0.03	\$0.05	\$0.04	\$0.03.5	\$0.10	\$0	\$0	\$0	\$0.45	\$0.45
Cost of excess minutes	\$14.07	\$0.00	\$23.45	\$5.76	\$0.00	\$0	\$0	\$0	\$0	\$143.55	\$143.55
Cost of Additional features: Caller ID, Voicemail, Call Waiting, Long Distance	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cost per Plan	\$2.50	\$20.00	\$15	\$25	\$35	\$30.00	\$52.95	\$40.00	\$60.00	\$39.99	\$44.99
Cost to Customer with Average Usage	\$16.57	\$20.00	\$38.45	\$30.76	\$35.00	\$30.00	\$52.95	\$40.00	\$60.00	\$183.54	\$188.54

\*Data Taken from Resolution T-17284, Approving Virgin Mobile Advice Letter, Attachment 8



**Telscape Proposed Lifeline Wireless Plans versus Other Federal Lifeline Wireless Carriers in California**

	Proposed Wireless Lifeline Plan Telscape 300	Proposed Wireless Lifeline Plan Telscape 1100	Virgin Mobile Wireless Lifeline Plan	Nexus Wireless Lifeline Plan 250	Nexus Wireless Lifeline Plan 500	Nexus Wireless Lifeline Plan 1000	Cricket Wireless Lifeline Plan
Avg. MOU*	769	769	769	769	769	769	769
Basic Plan Minutes	300	1100	1000	250	500	1000	Unlimited
Avg. Excess MOUs	469	0	0	519	269	0	0
Cost per Min in excess of allowanc e	\$0.03	\$0.03	\$0.10	\$0.033	\$0.033	\$0.033	\$0
Cost of excess minutes	\$14.07	\$0.00	\$0	\$17.13	\$8.88	\$0	\$0
Cost of Add'l features: Caller ID, Voicemail, Call Waiting, Long	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cost per Plan	\$2.50	\$20.00	\$20.00	\$2.50	\$5.00	\$20.00	\$21.50
Cost to Custome r with Average Usage	\$16.57	\$20.00	\$20.00	\$19.63	\$13.88	\$20.00	\$21.50

**ATTACHMENT B**

Telscape wireless Advice Letter Supplement 1A, Attachment 5  
Compliance with G.O. 153 Basic Service Elements of California LifeLine

No.	Service Element of LifeLine	Complied?	Comments
1)	Access to single party local exchange service that is substantially equivalent to single party local exchange service.	Yes	
2)	Access to all interexchange carriers offering service in the LifeLine customer's local exchange.	Yes	
3)	Ability to place calls	Yes	
4)	Ability to receive free incoming calls	No	
5)	Free touch-tone dialing	Yes	
6)	Free unlimited access to 911/E-911	Yes	
7)	Access to local directory assistance (DA). Each utility shall offer its LifeLine customers the same number of free DA calls that it provides to its non-LifeLine customers.	Yes	Telscape wireless does not provide free DA calls to its non-LifeLine customers. Telscape wireless charges \$1.50 per DA call and usage minutes are deducted.
8)	Access to foreign Numbering Plan Areas.	Yes	
9)	LifeLine rates and charges.	Yes	
10)	Customer choice of flat-rate local service or measured-rate local service. The 17 smaller LECs identified in D. 96-10-066 do not have to offer LifeLine customers the choice unless they offer the choice to their non-LifeLine customers.	No	Telscape wireless offers wireless plans with a given number of minutes for a fixed price.
11)	Free provision of one directory listing per year as provided for in D. 96-02-072.	No	There is not a publicly available directory for customers of wireless service.
12)	Free white pages telephone directory	No	Wireless carriers do not provide this resource.
13)	Access to operator service.	Yes	
14)	Voice grade connection to the public switched telephone network.	Yes	
15)	Free Access to 800 or 800-like toll-free services.	No	No additional charge for 8YY access; usage minutes are deducted.
16)	Access to telephone relay services as provided for in PU Code § 2881 et seq.	Yes	
17)	Toll free access to customer service for information about LifeLine, service activation, service termination, service repair, and bill inquiries.	Yes	
18)	Toll free access to customer service representatives fluent in the language (English and non-English) the LifeLine service was originally sold in.	Yes	
19)	Free access to toll blocking service.	NA	Provides toll limitation as required by FCC Rules
20)	Free access to toll control service, but only if (i) the utility is capable of offering toll-control service and (ii) the LifeLine customer has no unpaid bill for toll service.	NA	
21)	Access to two residential telephone lines if a low-income household with a disabled person requires both lines to access LifeLine	Yes	
22)	Free access to the California Relay Service via 711 abbreviated dialing code.	Yes	

## ATTACHMENT C

### Resolution T-17339 Service List (September 6, 2011)

UTILITY NAME	EMAIL
Skadden, Arps, Slate, Meagher & Flom Llp	john.beahn@skadden.com
Citizens Telecommunications Co. Of Ca.	Charlie.Born@FTR.com
Citizens Telecoms. Co. Of Golden State	Charlie.Born@FTR.com
Citizens Telecoms. Co. Of Tuolumne	Charlie.Born@FTR.com
The Siskiyou Telephone Company	jtlowers@sisqtel.net
Happy Valley Telephone Co.	gail.long@tdstelecom.com
Hornitos Telephone Company	gail.long@tdstelecom.com
Winterhaven Telephone Company	gail.long@tdstelecom.com
Verizon West Coast, Inc.	linda.fogg@verizon.com
Sierra Telephone Company, Inc.	lindab@stcg.net
Calaveras Telephone Company	ysmythe@caltel.com
Cal-Ore Telephone Company	waihun@cot.net
Ducor Telephone Company	egwolfe@ducortelco.com
Foresthill Telephone Company, Inc.	dclark@kermantelephone.com
Global Valley Network, Inc.	susan.leclair@pinetreenetworks.com
Kerman Telephone Company	dclark@kermantelephone.com
Pinnacles Telephone Company	lorrie.bernstein@mossadams.com
Volcano Telephone Company	earlb@volcanotel.com
The Ponderosa Telephone Company	dand@ponderosatel.com
WWC License, LLC/Alltel/Western Wireless	nathan.glazier@alltel.com
AT&T California	regtss@att.com
Verizon California, Inc.	margo.ormiston@verizon.com
Frontier Communications Of The Southwest	Charlie.Born@FTR.com
Connectto Communications	ccollier@telecompliance.net
TracFone Wireless, Inc	brecherm@gtlaw.com
Cricket Communications	suzannetoller@dwt.com
I-Wireless	lsteinhart@telecomcounsel.com
Nexus Communications	pacasciato@gmail.com
Virgin Mobile	john.beahn@skadden.com
Llela Tan-Walsh	Llela.Tan-Walsh@cpuc.ca.gov
Charles Christiansen	Charles.Christiansen@cpuc.ca.gov
Michael Evans	Michael.Evans@cpuc.ca.gov
Telco Service Quality	telcoservicequality@cpuc.ca.gov
Chris Witteman	Christopher.Witteman@cpuc.ca.gov
Hien Vo	Hien.Vo@cpuc.ca.gov
Alik Lee	Alik.Lee@cpuc.ca.gov
Xiao Huang	Xiao.Huang@cpuc.ca.gov
Christine Mailloux	cmailloux@turn.org
Davis Wright Tremaine LLP	suzannetoller@dwt.com
Peter A. Casciato	pacasciato@gmail.com
Robby P. Abarca	rpabarca@abarcalawfirm.com
Candice Hyon	candiceh@totalcallusa.com
Patrick Rosvall	prosvall@cwclaw.com

UTILITY NAME	EMAIL
Mondon, Jeffrey A (ATTsi)	jm7626@att.com
Michelle King	michelle.king@cpuc.ca.gov
Margaret Tobias	marg@tobiaslo.com
Diana Aguirre (Telscape)	DAguirre@telscape.net
Heather Kirby (i-wireless)	hkirby@telecomcounsel.com
Telrite	Brian.lisle@telrite.com
Andrew Gipson (Telrite)	agipson@watkinsludlam.com
TAG Mobile	frank.delcol>tagmobile.net
Margarett Johnson (TAG)	mjohnson@watkinsludlam.com