

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division
Carrier Oversight and Programs Branch

RESOLUTION T-17830
January 16, 2025

R E S O L U T I O N

RESOLUTION T-17830. This Resolution grants the request of DISH Wireless, L.L.C. d/b/a Gen Mobile, a wireless services provider, to be designated as an Eligible Telecommunications Carrier (ETC) to obtain federal Lifeline support for voice and broadband service in its California service area.

S U M M A R Y

By this Resolution, the California Public Utilities Commission (CPUC or Commission) grants the request of DISH Wireless, L.L.C. d/b/a Gen Mobile (DISH) (U-4533-C), a wireless service provider using the brand “Gen Mobile,” to be designated as an Eligible Telecommunications Carrier (ETC) to obtain federal Lifeline support to provide wireless voice and broadband services to qualifying low-income households in California (See Appendix A for service territory map). DISH has already obtained California LifeLine authority via Resolution T-17759, issued March 17, 2022.

This Resolution approves the following prepaid wireless plans as eligible for both federal Lifeline and California LifeLine support:¹

- Basic Plan: Unlimited Talk & Text plus 4 GB data for \$0 per month. Retail price: \$20.00
- Standard Plan: Unlimited Talk & Text plus 6 GB data for \$0 per month. Retail price: \$25.00
- Unlimited Talk & Text plus 7 GB data for \$0 per month. Retail price: \$30.00
- Unlimited Talk & Text plus 16 GB data for \$10 per month. Retail price: \$40.00
- Unlimited Talk, Text & Data (35 GB of 5G/4G, 10 GB hotspot) for \$20 per month. Retail price: \$50.00

¹ Rates as adjusted according to DISH Advice Letter 42A, August 26, 2024. These rate plans were additionally submitted for the California LifeLine program via Advice Letter 52 on October 31, 2024.

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- Unlimited Talk, Text & Data (35 GB of 5G/4G, 20 GB hotspot) for \$30 per month.
Retail price: \$60.00

These plans do not include free handsets.²

DISH's Advice Letter

On September 27, 2023, DISH submitted a Tier 3 Advice Letter (AL) 42 to the CPUC requesting ETC designation in order to receive federal Lifeline support. DISH did not make this request for the purpose of receiving high-cost support. As DISH is already offering California LifeLine service, the additional federal Lifeline subsidy will allow DISH to offer Lifeline service at a reduced price, thus enabling it to compete on a level playing field here in California and to reach more eligible participants.

Clarifying questions and requests for documentation were addressed by DISH on August 8, 2024, in response to a Staff data request sent June 28, 2024. DISH additionally filed supplemental Advice Letter 42A in August 2024 to update its proposed Lifeline plan specifics.

BACKGROUND

Federal ETC Designation Requirements

In order to receive federal universal service support, an applicant must be designated as an ETC. Section 254(e) of the Communications Act (the Act), as amended, states that “only an eligible telecommunications carrier under section 214(e) shall be eligible to receive specific federal universal service support.”³

The Act gives state commissions the primary responsibility for granting ETC designations to companies operating in their states. Section 214(e)(2) states that, “[u]pon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an

² In the original ETC application, these plans did include free handsets. However, the text has been modified to read “If a free cell phone is offered by Gen Mobile, it may be new or refurbished. Customers may also be offered upgraded devices for an added cost.” DISH Supplemental Advice Letter 42A.

³ 47 C.F.R. §§ 54.400 et seq. contains the Federal Communications Commission’s (FCC) Lifeline rules issued to implement section 254 of the Act. 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.

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eligible telecommunications carrier for a service area designated by the state commission” so long as the requesting carrier meets the requirements of section 214(e)(1).

Accordingly, Section 214(e)(1) provides that a common carrier designated as an ETC must offer services supported by the federal Universal Service Fund (USF) throughout the designated service area either by using its own facilities, resale, or by a combination of its own facilities and resale of another carrier’s services and must advertise the services and the related charges using advertising media of general distribution throughout the designated service area. Advertising must include the availability of federal Lifeline services in a manner reasonably designed to reach those likely to qualify for those services.

In addition to meeting the public interest standard, the FCC rules require that a carrier requesting ETC designation must:

1. Certify that it will comply with the service requirements applicable to the support that it receives;
2. Submit a five-year plan that describes proposed improvements or upgrades to the applicant’s network throughout its proposed service area;⁴
3. Demonstrate its ability to remain functional in emergency situations;
4. Demonstrate that it will satisfy applicable consumers and meet service quality standards;
5. Demonstrate that it is financially and technically capable of providing the federal Lifeline service; and
6. Submit information describing the terms and conditions of any voice telephone service plans offered to federal Lifeline participants.⁵

California ETC Designation Requirements

The CPUC also adopted procedures and guidelines for processing ETC applications. In Resolution T-17002 (May 25, 2006), the CPUC adopted *The Comprehensive Procedures and Guidelines for ETC Designation and Requirements for ETCs* that are consistent with FCC Universal Service Order 97-157⁶ regarding the designation of a communications service

⁴ This requirement is only applicable to ETC applicants requesting to participate in federal High-Cost subsidy programs. DISH’s AL 42 does not seek this authority. If DISH wishes to amend its ETC designation at a later time in order to be eligible for participation in the federal High-Cost program, it may do so by filing a Tier 2 Advice Letter.

⁵ 47 C.F.R. § 54.202(a).

⁶ See *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Dkt. 96-45 (FCC 97-157), released May 8, 1997.

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provider as a qualified ETC. Pursuant to this Resolution, applicants seeking ETC designation in California are required to provide the following:

1. A description of the proposed service offerings and attached service area maps;
2. A description of the advertising plan(s);
3. A statement of commitment to provide service;
4. Submission of the 2-year service quality improvement plan;
5. A showing of the ability to remain functional;
6. A statement of commitment to consumer protection;
7. Demonstration that a carrier's usage plan is comparable to that of the incumbent LEC in the proposed service area; and
8. A public interest determination.

In addition to Resolution T-17002 ETC designation rules, carriers requesting ETC designation must also comply with General Order (GO) 153, as well as CPUC User Fee and surcharge obligations. The CPUC User Fee is levied on all CPCN-holding telecommunications carriers providing services directly to customers. Surcharges are paid by any provider with customers in California, at a current rate of \$1.11 per access line. All telecommunications carriers and Voice over Internet Protocol providers are also required to collect and remit public purpose program surcharges from end-users. These surcharges fund the CPUC's universal service programs.

Notice/Protests

DISH served its AL 42 filing via email to all parties on the ETC service list and the AL 15 appeared in the Commission's Daily Calendar on September 28, 2023. No protests were filed.

DISCUSSION

This Resolution adopts Staff's recommendation to approve DISH's request for ETC designation to obtain federal Lifeline support in California. DISH does not plan to participate in federal high-cost funding programs. For future federal and/or state grant(s) participation, or when high-cost support is requested or is required by a particular program, Staff recommends DISH file a Tier 2 advice letter with the CPUC requesting a change in its ETC status.

Company Overview

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DISH Wireless L.L.C. is a Colorado limited liability company with a principal address at 9601 S. Santa Fe Drive, Littleton, CO 80120. DISH provides, among other things, wireless telecommunications services operating in California and other states. Much of this service is delivered under the Gen Mobile brand name. DISH received its CPUC Wireless Identification Registration (“WIR”) number U-4533-C May 4, 2020, authorizing it to provide wireless service in California. According to AL 42, DISH is in the process of constructing its own nationwide 5G network running over previously held wireless spectrum assets.⁷

As a registered Commercial Mobile Radiotelephone Services (CMRS) provider in California, DISH is required to report and pay public purpose program surcharges and user fees on its California intrastate telecommunications services revenues. DISH has is current with these payments. As a service provider with network facilities, DISH must also comply with emergency preparedness requirements per D. 20-01-011. Accordingly, DISH timely submitted its 2024 Wireless Resiliency Plan detailing approximately forty operational cell sites and in California high-fire-threat districts.⁸

Compliance with Federal Facilities-Based Requirements

Staff considers DISH to be a “hybrid” service provider,⁹ meaning that wireless services are delivered using a combination of its own facilities and those of a wholesaler. DISH is in the process of becoming a nationwide facilities-based provider, with obligations to the U.S. Department of Justice (DoJ) to build its own 5G wireless network as part of the T-Mobile’s settlement agreement to purchase Sprint Wireless in 2019.¹⁰ The purpose of the DoJ’s inclusion of DISH buildout obligations in the T-Mobile/Sprint merger was for DISH to build a 5G network of its own in order to mitigate the competitive disadvantages that would result from having only three nationwide facilities-based wireless service providers in the market.

DISH is emerging as a facilities-based provider with its operational facilities in California. While DISH’s network buildout is in process, areas not yet deployed are

⁷ DISH describes this network as “the nation’s first virtualized, cloud-native, Open RAN-based 5G broadband network.” DISH AL 42 at 2.

⁸ DISH Wireless 2024 Annual Wireless Resiliency Plan. September 19, 2024

⁹ As DISH continues to build its 5G network, there has been some ambiguity over whether DISH is a facilities-based service provider. T-17759, the Resolution which approved DISH’s authorization for California LifeLine, considers DISH as only a Mobile Virtual Network Operator (MVNO), i.e a reseller, delivering service over its partner carriers’ facilities. DISH has applied for ETC as a facilities-based provider.

¹⁰ *DOJ Proposed Final Judgment*, as described in Letter from Jeffrey H. Blum, Senior Vice President, Public Policy and Government Affairs, DISH, to Donald Stockdale, Chief, Wireless Telecommunications Bureau (July 26, 2019) (DISH July 26, 2019 Commitments Letter).

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served using its partner carriers' facilities. As the buildout continues, DISH states that more and more of these areas will be covered by DISH cell sites.¹¹ On September 12, 2024, DISH filed its first annual Emergency Operations Plan (EOP) and its first Resiliency Report per D.20-07-011, which is required by all California service providers with network facilities in Tier 2 and Tier 3 High Fire Threat Districts.

Moreover, DISH has verified that at least some services are delivered over DISH's own network.¹²

Compliance with Federal and California ETC Requirements

A carrier must satisfy all federal and California ETC requirements in order to receive an ETC designation. DISH has met the following federal and California ETC requirements:

Certification that the applicant offers or intends to offer all services designated for support – Pursuant to 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.101(a), DISH asserts that its designated services will comply with the supported services eligible for federal Lifeline support. DISH will provide voice-grade access to the public switched network or its functional equivalent, using wireless CMRS services. All DISH plans will offer voice unlimited local and long-distance calling, caller ID, voice mail, three-way calling, and access to 6-1-1 and 9-1-1 emergency services.¹³

Certification that the applicant offers or intends to offer the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services – DISH certifies that supported voice services will be delivered via its own and wholesale partner facilities. DISH currently has multiple wholesale partners in California, which would allow its subscribers to roam on of its partner carriers' networks in areas where DISH has not deployed its own network. . DISH facilities currently cover nearly 75% of the population of the United States with its own facilities.¹⁴

A description of the marketing plan of the supported services and charges using media of general distribution – Pursuant to 47 C.F.R. § 54.201(d)(2), DISH states in its application that it intends to advertise using a variety of mechanisms, including but not limited to utilizing direct mail, local media, new maps showing availability on the public website, and online media. DISH will provide free,

¹¹ DISH Data Request Response. August 8, 2024.

¹² DISH Data Request Response. August 8, 2024.

¹³ DISH AL 42, at 3.

¹⁴ DISH AL 42 Attachment A.

unlimited access to customer service representatives fluent in the same language in which Lifeline service was originally sold or marketed.¹⁵

Commitment to provide supported service throughout the designated service area – DISH asserts that it is committed to provide the supported voice service to requesting customers within the proposed designated service areas on a timely basis. A map of DISH’s ETC California service area can be found in Appendix A. DISH also provided a list of approximately 1,900 California zip codes where its service is available.¹⁶

Demonstration of ability to remain functional during emergency situations – Pursuant to 47 C.F.R. § 54.202(a)(2), DISH Wireless’ Lifeline services will remain functional in emergency situations.¹⁷ DISH provided Staff with both its 2024 Emergency Operations Plan and 2024 Wireless Resiliency Plan, pursuant to CPUC D.20-07-011.

Demonstration of financial and technical capability – Pursuant to 47 C.F.R. § 54.202(a)(4), Staff has found that DISH is financially capable of providing its proposed wireless services to eligible low-income households. DISH was granted California LifeLine authority, which also required a showing of financial and technical capability. Additionally, as DISH is required by DoJ and FCC to build and maintain a nationwide 5G network, its technical capability is being monitored federally. Both the FCC and DoJ deemed DISH to be financially and technically capable when these requirements were initiated.¹⁸

DISH has provided its Form 10-K and attested to its financial solvency.¹⁹ Additionally, DISH has never filed for bankruptcy protection and has never been the subject of CPUC enforcement or CPCN revocation.

Commitment to meet public interest requirements for the proposed service areas – DISH’s ETC designation will serve the public interest by providing a competitive option for low-cost wireless service throughout California. Lifeline plans under the Gen Mobile brand are affordable, easy to use and will provide access to high-

¹⁵ DISH AL 42, at 6.

¹⁶ DISH AL 42, Attachment H, Exhibit E.

¹⁷ DISH AL 42, at 11.

¹⁸ See *DOJ Proposed Final Judgment*, as described in Letter from Jeffrey H. Blum, Senior Vice President, Public Policy and Government Affairs, DISH, to Donald Stockdale, Chief, Wireless Telecommunications Bureau (July 26, 2019) (DISH July 26, 2019 Commitments Letter)

¹⁹ DISH AL 42, at 12 and Exhibit H

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quality wireless services. Lifeline offerings will be overseen by an experienced team with substantial knowledge of the federal Lifeline program.²⁰

Commitment to satisfy all applicable consumer protection and service quality standards – Pursuant to 47 C.F.R. § 54.202(a)(3), DISH commits to offer its subscribers the highest level of protection and quality of service. DISH asserts that it will make every effort to expeditiously resolve complaints received by the Commission and will designate a specific contact person to work with Commission Staff if requested.²¹

Compliance with Commission User Fee and Surcharge Obligations

Staff has verified that DISH is current with its remittance of the annual CPUC User Fees and public purpose program surcharges. DISH is required to continue to remain current with these remittances. Failure to comply may lead to enforcement action including, but not limited to, revocation of DISH's CPCN, authority to operate, and/or authority to operate as an ETC in California.

Providing Lifeline Voice Service to Customers/Future Changes to Designated Service Areas

DISH requests designation as an ETC to provide voice telephony services to qualifying low-income households in its ETC service territory as shown in Appendix A.

As a federal Lifeline provider, DISH will be authorized to provide federal Lifeline voice telephony services. Any changes to DISH's service areas in California must be presented by filing a Tier 2 advice letter that includes supporting documents; a description of the areas to be served; a list of the geographic service areas; and maps in Shapefile format of the proposed service area(s). If DISH decides in the future to change its designation to include federal high-cost support due to federal and/or state programs that require such a designation in order to receive grants or funding, it must also submit a Tier 2 advice letter with the CPUC reflecting those changes.

Public Interest Determination

²⁰ DISH AL 42, at 12.

²¹ DISH AL 42, at 10.

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Before recommending the designation of a carrier as an ETC, Staff must determine that doing so would be in the public interest for California consumers.²² Granting DISH ETC status will serve the public interest by providing unserved/underserved customers and low-income households in California with access to wireless telecommunications services. DISH's entry into the Lifeline service market increases competition and consumer choice.

Price Analysis

DISH's proposed Lifeline service plans are as follows:

- Basic Plan: Unlimited Talk & Text plus 4 GB data for \$0 per month. Retail price: \$20.00
- Standard Plan: Unlimited Talk & Text plus 6 GB data for \$0 per month. Retail price: \$25.00
- Unlimited Talk & Text plus 7 GB data for \$0 per month. Retail price: \$30.00
- Unlimited Talk & Text plus 16 GB data for \$10 per month. Retail price: \$40.00
- Unlimited Talk, Text & Data (35 GB of 5G/4G, 10 GB hotspot) for \$20 per month. Retail price: \$50.00
- Unlimited Talk, Text & Data (35 GB of 5G/4G, 20 GB hotspot) for \$30 per month. Retail price: \$60.00

These plans do not include free handsets.²³

These offerings include unlimited local calling with unlimited domestic long distance calling, caller ID, voice mail, and three-way calling. Staff finds that the pricing plan offered by DISH is reasonable for voice services since DISH's unlimited voice service plan is comparable to other available service plans. Both AT&T and T-Mobile offer similar wireless plans for Lifeline customers. DISH's Lifeline service plans were also compared with other California LifeLine providers when it was granted California LifeLine authority in 2022.²⁴ Although these plans have been modified since that time, DISH's price points are still well within the range of other California LifeLine providers. Thus, staff recommends approval.

²² *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*.

²³ In the original ETC application, these plans did include free handsets. However, the text has been modified to read "If a free cell phone is offered by Gen Mobile, it may be new or refurbished. Customers may also be offered upgraded devices for an added cost." DISH Supplemental Advice Letter 42A.

²⁴ CPUC Resolution T-17759, at 10-13. March 25, 2022

Due Diligence Review

An integral part of Staff's processing of an ETC designation request is a due diligence review to determine if the applicant 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, conducting independent research about the applicant's past operations to provide the Commission with information that may be pertinent in deciding whether or not to grant the ETC request. Typical research methods include performing Lexis/Nexis legal resource searches, internet searches, reviewing industry and trade publications, querying other governmental agencies, contacting the FCC and USAC, reviewing a company's history of operations, and consulting with the Commission's Consumer Protection and Enforcement Division and Consumer Affairs Branch.

Financial documentation and SEC filings show DISH to be financially solvent. Staff discovered no mention of DISH ever having been subject to any enforcement sanctions or CPCN revocation proceedings, nor has it received a Notice of Apparent Liability from the FCC. Also, Staff did not discover any issues that would lead to a denial of DISH's request for authority to operate as an ETC service provider in the state of California.

If substantive issues emerge after the ETC service provider authorization is approved which raise public interest questions about DISH's ability to offer subsidized program services in compliance with the authorities granted in this Resolution, the Commission has the authority to pursue an enforcement action that may include fines, penalties, and the revocation of ETC designation in California.

SAFETY CONSIDERATIONS

Given that safety and emergency communications are common concerns for all of California's telephone customers, Staff recommends that the Commission require DISH to fully and clearly inform prospective federal Lifeline participants of potential limitations to accessing Enhanced 911 (E-911) and/or 911 in the event of an emergency or power outage. Such disclosures include, but are not limited to, clear statements on marketing materials and conspicuous placement on the public website in the form of information content on webpages, footnotes, and/or listings on frequently asked questions (FAQ) webpage.

COMMENTS ON DRAFT RESOLUTION

In compliance with Public Utilities Code section 311, subdivision (g)(1), a notice letter was emailed on December 13, 2024 informing all parties on the ETC Distribution List of the availability of the draft of this Resolution for public comments at the Commission's documents website at <http://www.cpuc.ca.gov/documents/>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at the same website. The Commission received comments from DISH suggesting minor edits and asking that a confidential map be excluded from the final resolution.²⁵

FINDINGS

1. DISH Wireless L.L.C. is a Colorado limited liability company with a principal address at 9601 S. Santa Fe Drive, Littleton, CO 80120. DISH received its CPUC Wireless Identification Registration ("WIR") number U-4533-C May 4, 2020.
2. DISH provides, among other things, wireless telecommunications services operating in California and other states. Much of this service is delivered under the Gen Mobile brand name.
3. On September 27, 2023, DISH submitted a Tier 3 Advice Letter (AL) 42 to the CPUC requesting ETC designation in order to receive federal Lifeline support.
4. Staff recommends that DISH's ETC designation request to obtain federal Lifeline support be granted.
5. DISH commits to offering wireless voice service with unlimited local and domestic long-distance calling for \$20.00 per month. Eligible Lifeline participants will pay \$0 per month after federal and California subsidies.
6. Staff conducted a due diligence review to determine DISH's fitness as it relates to business practice behavior and customer protection that may call into question its fitness to be granted ETC designation to serve California consumers. Staff found no unresolved fitness issues.
7. The Commission may pursue an enforcement action which may include fines, penalties, denial, suspension, and/or revocation of its ETC designation should

²⁵ DISH Wireless Comments on Draft Resolution T-17830. January 2, 2025.

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substantive issues emerge after DISH is approved which raise public interest questions about DISH's operations.

THEREFORE, IT IS ORDERED THAT:

1. The California Public Utilities Commission approves DISH Wireless L.L.C. d/b/a/ Gen Mobile (DISH) (U-4533-C) as an Eligible Telecommunications Carrier to obtain federal Lifeline support in California.
2. DISH's Eligible Telecommunications Carrier designation approval for federal Lifeline support shall be contingent upon the following:
 - a) Submission of annual reports and compliance reports with the Commission, such as but not limited to the Federal Communications Commission's annual reporting requirements for Eligible Telecommunication Carriers and the California Public Utilities Commission's General Order 133 D out of service reports;
 - b) Compliance with the California Public Utilities Commission's User Fee and public purpose program surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its eligible telecommunications carrier designation;
 - c) Posting of safety-related information about wireless telephone service limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website; and
 - d) Abiding by all applicable state and federal consumer protection, including the California Public Utilities Commission's General Order 168, which is the Consumer Bill of Rights Governing Telecommunications Services.
 - e) Compliance with applicable California Public Utilities Commission Decisions regarding emergency consumer protections and service quality rules.
3. DISH shall comply with the California Public Utilities Commission's General Order 153 and the California LifeLine Administrator's enrollment process including, but not limited to, validation checks, transmission requirements, and efforts to prevent waste, fraud, and abuse.
4. DISH shall comply with all applicable California Public Utilities Commission's rules, orders, decisions, and resolutions, the California Public Utilities Code, and Lifeline

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rules. Failure to do so may result in fines, penalties, denial, suspension, and/or revocation of its Eligible Telecommunications Carrier designation in California.

5. DISH shall inform Lifeline customers of the limitations that may affect wireless telephony service including E-911/911 which may be limited or unavailable in the event of an emergency or power outage. Disclosures will include but are not limited to, clear statements on all marketing materials and the company's website.
6. DISH shall file a Tier 2 Advice Letter to request approval for any future changes to its approved designated service area. This request shall include a description of the areas to be served; a list of the geographic areas; and a map(s) in Shapefile format of the proposed service area.
7. DISH shall file a Tier 2 Advice Letter to request changes to its designation status to include federal high-cost support, if it later chooses to do so.

This Resolution is effective today.

I hereby certify that this resolution was adopted by the Public Utilities Commission of the State of California at its regular meeting on January 16, 2025. The following Commissioners approved it:

/s/RACHEL PETERSON

Rachel Peterson

Executive Director

ALICE REYNOLDS

President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

MATTHEW BAKER

Commissioner

APPENDIX A

DISH Wireless Service Area Coverage Map

