

**DRAFT**

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

**Communications Division  
Carrier Oversight and Programs Branch**

**RESOLUTION T-17340  
October 6, 2011**

**RESOLUTION**

RESOLUTION T-17340. This Resolution grants the request of Telscape Communications, Inc. (U-6589-C) to be designated as an Eligible Telecommunications Carrier to provide federal Lifeline and Link-Up services in the service areas of AT&T California and Verizon California.

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**SUMMARY**

By this Resolution, the California Public Utilities Commission (CPUC or Commission) grants the request of Telscape Communications, Inc. (U-6589-C) (Telscape wireline<sup>1</sup>) to be designated as an Eligible Telecommunications Carrier (ETC) to provide federal Lifeline and Link-Up services in the service areas of AT&T California (AT&T) and Verizon California (Verizon). Telscape wireline is not requesting federal High-Cost Fund support. Telscape wireline's request is consistent with the Resolution T-17002 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 FCC designate telephone corporations as ETCs.<sup>2</sup> The FCC then authorizes the ETC to receive federal Universal Service Fund

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<sup>1</sup> Telscape Communications also have license in California to operate as a wireless carrier. 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 Communications filed two separate Advice Letters requesting ETC designation for its wireline and wireless entity. Henceforth, because Telscape Communications is requesting ETC designation as a wireline carrier in this Resolution, we refer to Telscape Communications (U-6589-C) as Telscape wireline.

<sup>2</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.

(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>3</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 Federal Communications Commission (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.

On October 21, 2001, D. 01-10-061 granted Telscape wireline a Certificate of Public Convenience and Necessity (CPCN) to provide limited facilities-based and resold local exchange, and interexchange telecommunications services within the service territories of AT&T California (AT&T) and Verizon California (Verizon).

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

On June 7, 2011, Telscape wireline filed AL No. 81 requesting ETC designation for the limited purpose of providing Federal Lifeline and Link-Up services in AT&T and Verizon service areas. Telscape wireline is not requesting federal High-Cost Fund designation and support. Telscape wireline provided information to comply with the requirements of Resolution T-17002.

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<sup>3</sup> 47 U.S.C. Section 214(e)

## **NOTICE/PROTEST**

In compliance with General Order (G.O.) 96-B, Telscape wireline served a copy of its Advice Letter No. 81 on July 7, 2011 via email to its AL service list. Telscape wireline's AL No. 81 was posted on the CPUC Daily Calendar on July 15, 2011.

No protests were received.

## **DISCUSSION**

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

In order for the Commission to grant Telscape wireline's request to be designated as an ETC, Telscape wireline has to satisfy the requirements for designation as an ETC pursuant to Resolution T-17002, *The Comprehensive Procedures and Guidelines for ETC Designation*. Telscape wireline's AL provided information required in Appendix A of Resolution T-17002. Telscape wireline 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 wireline 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 wireline's AL and determined that Telscape wireline 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 wireline offers the services designated by the FCC<sup>4</sup> in the service areas it plans to be eligible to receive federal Lifeline and Link-Up support. Telscape wireline will provide these services using its own facilities. 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;

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<sup>4</sup> 47 U.S.C. § 214(e)

- 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 wireline commits to using media of general distribution to comply with Appendix A: Section I –E of Resolution T-17002 and Title 47 C.F.R. Section 54.201. Telscape wireline also commits to advertizing the availability of the supported services to the general public within its designated ETC service areas; as well as through the use of print ads (local city publications and newspapers), online social media/networking sites and its retail store locations.

### **Public Interest Determination**

Before designating a carrier as an ETC, the Commission must determine that doing so would be in the public interest.<sup>5</sup> CD staff believes that Telscape wireline has demonstrated that it would be in the public interest for the company to be designated as an ETC. Telscape wireline has met the Resolution T-17002, Appendix A: Section II - G: *Public Interest Determination* requirements by demonstrating that: a) the ETC designation will increase consumer choices; b) explaining the advantages and disadvantages of its service offerings; and c) the absence of cream skimming.<sup>6</sup>

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

Telscape wireline ETC designation would maintain the current available consumer choices for telecommunication services but would not necessarily increase it. Telscape wireline has participated in the California’s Lifeline program and designation of Telscape wireline as an ETC would preserve consumers’ telecommunications service choice for wireline service.

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

CD staff recognizes that Telscape wireline will gain certain advantages in being designated as an ETC. The designation of Telscape wireline as an ETC allows consumers to receive federal and state subsidized wireline service. The advantages of Telscape wireline’s offerings outweigh the disadvantages. Telscape wireline also has tailored its service offerings to meet the specific needs of their customers, e.g., face-to-

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<sup>5</sup> FCC 05-46, paragraph 40, CPUC Resolution T-17002 Appendix A, Section II-G: Public Interest Determination

<sup>6</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.”

face or in-store transaction methods for learning about the products and services, and bill payments.

**c. The absence of creamskimming**

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

CD staff recommends granting Telscape wireline's request for designation as an ETC. The Commission agrees with CD staff's recommendation and grants Telscape wireline's request.

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 wireline 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 wireline's request would be in the public interest and recommends that the Commission approve its ETC designation request. In addition, CD recommends that Telscape wireline 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 operating authority through its CPCN in California.

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

Upon approval of this Resolution, CD recommends that Telscape wireline be required to file information with the USAC, pursuant to 47 Code of Federal Regulation (C.F.R.) Section 54.401 (d), demonstrating that its wireline federal Lifeline service meets the FCC requirements, and stating the number of qualifying low-income customers and the amount of state assistance. Telscape wireline shall provide the USAC an estimated amount of state assistance (if any) based on current California LifeLine rates, net of expected amount of federal support. A copy of Telscape wireline's certification with the USAC shall be provided to the CD Director within 30 days of receipt from USAC by Telscape wireline.

### **Reimbursements from the California LifeLine fund**

As a designated ETC, Telscape wireline is eligible to obtain federal Lifeline and Link-Up support from the USAC for active customer Link-Up and Lifeline access lines which are provided using its own facilities or by using access lines obtained through the lease of Unbundled Network Element (UNE) facilities from another carrier.

The Commission has authority to audit Telscape wireline's federal and California LifeLine claims to ensure that duplicative claims have not been made. California LifeLine payments shall be reduced by amounts received under the federal ETC program.<sup>7</sup> CD recommends that Telscape wireline be required to provide supporting documents to CD staff as requested showing this reduction.

The Commission concurs with CD's recommendations and grants Telscape wireline's request for ETC designation for the purpose of offering federal Lifeline and Link-Up services in the service areas of AT&T and Verizon.

### **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 draft Resolution. On September 6, 2011, the Commission distributed a draft of this Resolution for comments to the utilities and other interested parties. *See* Attachment A for the Draft Resolution T-17340 Service List (September 6, 2011).

### **FINDINGS**

1. On July 7, 2011, Telscape wireline filed Advice Letter No. 81 requesting ETC designation to provide federal Lifeline and Link-Up services in the AT&T and Verizon service areas.
2. On October 21, 2001, D. 01-10-061 granted Telscape wireline its CPCN in California allowing it to operate as a local exchange carrier the AT&T and Verizon service areas.

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<sup>7</sup> Decision 00-10-028 (G.O. 153), p.85

3. Telscape wireline is not requesting federal High-Cost Fund designation and support.
4. Telscape wireline 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.
5. Telscape wireline has demonstrated that it is in the public interest to be designated as an ETC.
6. CD recommends that Telscape wireline be required to certify to the federal USAC that it shall pass through the entire federal subsidy amount to qualifying low-income customers.
7. California LifeLine payments are required to be reduced by amounts received under the federal ETC program.
8. CD recommends that Telscape wireline be required to provide supporting documents to CD staff as requested showing the reduction from California LifeLine payments of the amounts it received under the federal ETC program.
9. CD recommends that Telscape wireline 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 operating authority through its CPCN in California.
10. On September 6, 2011, in compliance with P.U. Code Section 311(g), the Commission distributed a draft of this Resolution for comments to the Resolution T-17340 Service List (*see* Attachment A of this draft Resolution).

**THEREFORE, IT IS ORDERED** that:

1. Telscape wireline Communications, Inc. (U-6589-C) (Telscape wireline) request to be designated as an Eligible Telecommunications Carrier (ETC) to provide federal Lifeline and Link-Up services in the AT&T California (AT&T) and Verizon California (Verizon) service areas is granted.
2. Telscape wireline shall certify to the Universal Service Administrative Company (USAC) that it will pass through the entire federal subsidy amount to qualifying low-income customers. A copy of Telscape wireline's certification with the

USAC shall be provided to the Communications Division (CD) Director within 30 days of receipt from USAC by Telscape wireline.

3. California LifeLine payments shall be reduced by amounts received under the federal ETC program. Telscape wireline shall provide supporting documents to CD staff as requested showing this reduction.
4. Telscape wireline shall continue to comply with all applicable 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 operating authority through its Certificate of Public Convenience and Necessity (CPCN) 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**  
Draft Resolution T-17340 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
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AT&T California	regtss@att.com
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