

**BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

APPLICATION OF ASSURANCE)	
WIRELESS USA, L.P., FOR)	Docket No. TC24-002
DESIGNATION AS AN ELIGIBLE)	
TELECOMMUNICATIONS CARRIER)	
FOR THE PURPOSE OF OFFERING)	
LIFELINE SERVICE TO QUALIFYING)	
CUSTOMERS)	

ASSURANCE WIRELESS’ RESPONSES TO STAFF’S THIRD DATA REQUESTS

Request to: Assurance Wireless USA, L.P.
Request from: South Dakota Public Utilities Commission Staff
Date of Request: 3/28/2024
Responses Due: 4/8/2024

Assurance Wireless’s Responses to Staff’s Third Data Requests

3-1. Refer the response to DR2-1. Assurance references a couple of FCC orders in footnote 1, these orders only mention the forbearance for a “study area” in the mentioned laws and rules. Wire centers, which Assurance used to define the requested area in Exhibit 4, appear to be subsets within the “study area”. Explain how the forbearance order applies to wire centers when the two rules under FCC forbearance only deal with the “study area” as a whole.

Response: A study area is the entire service area served by an incumbent local exchange carrier (“ILEC”) within a state.¹ A wire center is a sub-part of a ILEC’s study area. The Federal Communications Commission (“FCC”) defines a wire center to be “the location of a local switching facility containing one or more central offices.”² This definition, created in the 1990s, has been rendered somewhat obsolete by technological changes in the telecommunications industry since then.

A “service area” is the area within which an ETC has universal service obligations and may receive universal service support.³ When a carrier seeks to be an ETC in a given state, it typically requests designation in an identified service area, but ultimately it is the state commission that establishes

¹ See *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 97-157 (rel. May 8, 1997), fn. 434.

² 47 C.F.R. § 54.5.

³ See *In the Matter of Telecommunications Carriers Eligible for Support, Lifeline and Link Up Reform*, WC Docket Nos. 09-197 and 11-42, *Memorandum Opinion and Order*, FCC 13-44 (rel. April 15, 2013), ¶ 4 (“*Service Area Forbearance Order*”).

the service area.⁴ Assurance Wireless is not aware of any specific requirements in federal or South Dakota law regarding the definition of a service area, except for the requirement, established in 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b), that if the ETC seeks designation in an area served by a rural telephone company, the ETC’s service area must conform to the rural telephone company’s “study area.” As explained in Assurance Wireless’ previous responses to Staff’s Data Requests, the FCC has decided that this requirement does not need to be adhered to when designating a Lifeline-only provider such as Assurance Wireless as an ETC.⁵

Thus, as far as Assurance Wireless is aware, the Commission can define Assurance Wireless’ “service area” for its ETC designation to be any geographic area that the Commission deems to be appropriate. Assurance Wireless requested, and continues to recommend, that its service area be defined to be its current wireless coverage area in South Dakota, as that coverage area may expand over time, but not including Tribal lands. Assurance Wireless intended for its proposed ETC service area in South Dakota to be as expansive as possible—that allows Assurance Wireless to maximize the availability of Lifeline in South Dakota. Obviously, Assurance Wireless cannot provide Lifeline beyond its current wireless coverage area, so the wireless coverage area is the outer bound of Assurance Wireless’ potential ETC-designated service area. The Wyoming Public Service Commission and Vermont Public Utility Commission recently defined Assurance Wireless’ ETC service area in this manner, without concern.⁶

- 3-2. Refer to the response to DR2-1 and the Petition on page 7. Assurance states that their requested service area is the current coverage area and “including as that coverage area may change going forward”.
- a) Explain where in the FCC or South Dakota rules and/or laws that it allows the SD Commission to approve a potentially ever-changing service territory?
 - b) How would the PUC know when the coverage area changes and where it changes?

Response: See the Response to Request 3-1. Assurance Wireless is not aware of any reason why there needs to be a federal or South Dakota law or rule specifically authorizing the South Dakota Commission to designate Assurance Wireless as a Lifeline-only ETC in a service area that may evolve as facilities are deployed. Assurance Wireless believes the Commission has broad authority, under South Dakota law and federal law, to define Assurance Wireless’ ETC service area.

⁴ *Id.*

⁵ *Id.*, ¶ 11.

⁶ *In the Matter of the Application of Assurance Wireless USA, L.P. for Designation as an Eligible Telecommunications Carrier*, Docket No. 62077-1-RA-24 (Record No. 17484), *Order Granting Designation* (rel. March 11, 2024), ¶ 5 (“Assurance requests designation as an ETC within the wireless coverage service area identified in Exhibit 3 of its Application, excluding Tribal lands.”); *Petition of Assurance Wireless USA, L.P. for designation as an Eligible Telecommunications Carrier in the State of Vermont*, Case No. 24-0147-PET, *Final Order Approving Designation as an Eligible Telecommunications Carrier* (rel. March 21, 2024), p. 8 (“The Commission designates Assurance Wireless ...[as a Lifeline-only ETC] with a service area in all areas of Vermont that are coextensive with its underlying carrier’s service areas as identified in Exhibit 3.”).

The potential evolution of Assurance Wireless' Lifeline-only ETC service area in South Dakota should be of little practical consequence (except as to Tribal lands), because Assurance Wireless' current coverage area in South Dakota extends over the vast majority of South Dakota (as shown on Exhibit 3 to Assurance Wireless' Petition). Assurance Wireless believes that the Commission does not need to know exactly where and when Assurance Wireless' ETC service area may incrementally expand—the Commission can assume that Assurance Wireless' provision of Lifeline extends, in essence, throughout all of South Dakota except for Tribal lands. However, in the unlikely event there is a material change in Assurance Wireless' wireless coverage area in South Dakota resulting from the deployment of a new cell site that expands coverage to an area not previously served, Assurance Wireless would seek the Commission's approval and expansion of its ETC-designated service area to include the new coverage area before offering Lifeline service there.

The reason why Tribal lands are different is that there is an enhanced Lifeline benefit for customers on Tribal lands. If Assurance Wireless decides to offer Lifeline on Tribal lands on South Dakota, it will come back before the Commission and seek an amended ETC designation in which its service area is expanded to include South Dakota' Tribal Lands.

3-3. Are there any South Dakota administrative rules applicable to the ETC designation process that Assurance requests waivers for?

Response: As discussed in Assurance Wireless' previous responses to various of Staff's Data Requests, there are some South Dakota administrative rules that are incapable of being applied to a Lifeline-only ETC. However, Assurance Wireless is not aware of any reason why those rules need to be formally waived since such rules, on their face, are not capable of being applied to a Lifeline-only provider. For example, assume there were a rule that said that a carrier's telegraph equipment had to be inspected annually, but because the technology had changed, the carrier now provides service without using any telegraph equipment at all. It would not be necessary to waive the rule—it would just be the case that the rule was no longer capable of being applied in a meaningful way.

3-4. Refer to the response to DR 1-54. Staff is aware of the FCC's forbearance of the service area requirement for Lifeline-only ETCs, meaning that Assurance would not need to serve the entire service area of a rural telephone company serving the same area. ARSD 20:10:32:43.01 states that "an applicant requesting designation as an eligible telecommunications carrier shall commit to providing service throughout its proposed designated service area to all customers making a reasonable request for service." This rule, as opposed to ARSD 20:10:32:43.02 (discussed in DR 1-55), does not mention high-cost support. Further explain how ARSD 20:10:32:43.01 is inapplicable regarding Assurance's petition since it encompasses all "applicants requesting designation as an eligible telecommunications carrier".

Response: The forbearance of the study area requirement, discussed in Assurance Wireless' Response to Request 2-1 and elsewhere, is unrelated to ARSD 20:10:32:43.01. ARSD

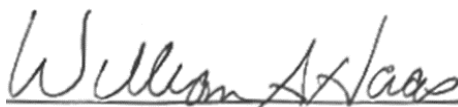
20:10:32:43.01 relates to the requirement to make service available within the ETC's designated service area upon reasonable request. The concept of ARSD 20:10:32:43.01 is that if a customer is already located in the ETC's designated service area, and wants to receive service from the ETC, and makes a reasonable request for such service, the ETC is obligated to provide it. The idea was that in return for getting high-cost universal service funding to *build out* facilities, the carrier would have funding available to build or provide equipment or facilities to serve hard-to-reach customers within a reasonable time.⁷ This concept is not applicable to a Lifeline-only ETC such as Assurance Wireless, because Assurance Wireless will not receive federal universal service high-cost funding that could be used to build out facilities to unserved locations. For this reason, ARSD 20:10:32:43.01 is inapplicable to Lifeline-only ETCs such as Assurance Wireless.

Moreover, as a practical matter, Assurance Wireless does not anticipate there will be many situations where a customer experiences inadequate coverage. But if such situations occur, the customer can contact Assurance Wireless' customer service to discuss various options. In sum, even though Assurance maintains that ARSD 20:10:32:43.01 is inapplicable to Lifeline-only ETCs, Assurance Wireless has stated (see Response to Request 1-54) it will provide service on a timely basis to all consumers making a reasonable request for service where wireless coverage is available.

⁷ The FCC used to have a rule similar to ARSD 20:10:32:43.01, but the FCC deleted it in 2012. Compare 47 C.F.R. § 54.202 (2011) (54.202(a)(1) required all ETC applicants to provide service throughout the proposed designated service area to all customers making a reasonable request for service) to 47 C.F.R. § 54.202 (2013) (requirement no longer included).

VERIFICATION

I, William A. Haas, am Managing Corporate Counsel for Assurance Wireless USA, L.P. (“Assurance”) and I hereby state that the facts set forth in the foregoing responses of Assurance to Staff’s Third Data Requests are true and correct to the best of my knowledge, information, and belief.

A handwritten signature in cursive script that reads "William A. Haas". The signature is written in black ink and is positioned above the printed name.

William A. Haas
Managing Corporate Counsel
Assurance Wireless USA, L.P.