

214(e); 47 C.F.R. § 54.401(a)(2). Assurance is a facilities-based provider using the T-Mobile network.¹

The Federal Communications Commission (FCC) has designated the following voice telephony services for support by federal universal service support mechanisms: (1) voice grade access to the public switched network or its functional equivalent; (2) minutes of use for local service provided at no additional charge to end users; (3) access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and (4) toll limitation services to qualifying low-income consumers. 47 C.F.R. § 54.101(a). Assurance has committed to providing the supported services.²

The carrier must also advertise the availability of such services and the charges for the services using media of general distribution. 47 U.S.C. § 214(e)(1)(B). Assurance stated that it will advertise the availability of its services and the charges in a manner reasonably designed to reach Lifeline-eligible consumers in accordance with all applicable requirements.³ The Commission finds that Assurance has demonstrated that it will meet the advertising requirement.

ARSD 20:10:32:42 states, in part, “the commission may not find it to be in the public interest if the telecommunications company requesting such designation is not offering its services coextensive with the rural telephone company’s service area.” However, the FCC has granted forbearance to this requirement for companies seeking Lifeline-only ETC designation in the area of a rural telephone company.⁴ Therefore, the Commission may find this designation to be in the public interest although the company will not offer its services coextensive with the rural telephone company’s service area.

Pursuant to ARSD 20:10:32:43, in its Petition and subsequent Data Responses, Assurance has provided: (1) The name, address, and telephone number of the applicant and its designated contact person;⁵ (2) The proposed effective date of designation of eligible telecommunications carrier status;⁶ (3) Identification of the service area, including a detailed map, for which the designation is sought;⁷ (4) A statement supporting the petition which specifies why the requested designation satisfies the requirements for eligible telecommunications designation and receiving federal universal service support under 47 C.F.R. § 54.201 (January 1, 2006);⁸ (5) (not applicable);⁹ and (6) A statement specifying why the applicant’s proposed designation is in the public interest.¹⁰

Pursuant to ARSD 20:10:32:43.01, an applicant for ETC status must commit to providing service to customers making a reasonable request for service in the service area. In its April 24, 2024, Assurance committed to adhering to the requirements of this rule.

ARSD 20:10:32:43.02 requires an applicant requesting designation as an ETC to submit a two-year plan that describes proposed improvements or upgrades to the applicant’s network throughout its proposed designated service area. As a Lifeline-only ETC, Assurance will not be receiving high-cost support as contemplated by this administrative rule. Therefore, the Commission finds this rule is not applicable and a two-year plan is not necessary.

¹ Staff Memorandum, p. 8.

² Petition, p. 6.

³ Petition, p. 6.

⁴ *In the Matter of Telecommunications Carriers Eligible for Support, Lifeline and Link Up Reform*, Memorandum Opinion and Order, WC Docket No. 11-42, FCC 13-44, ¶ 1.

⁵ Petition, p. 2-3; Response to Staff’s First Set of Data Requests, p. 8. In the May 8th Commission meeting, Assurance also committed to providing the phone number of William Haas, Managing Corporate Counsel of T-Mobile.

⁶ Petition, p. 2.

⁷ See Assurance’s Supplemental Responses to Staff’s Data Requests; Attachment 1A – Map; Revised Exhibit 4.

⁸ Assurance’s Responses to Staff’s First Set of Data Requests, p. 20; Petition, p. 4-12.

⁹ “If the applicant is seeking additional time to complete network upgrades pursuant to C.F.R. § 54.101(c) (January 1, 2006), the applicant shall list the reasons why additional time is needed and the estimated length of time to complete the network upgrades[.]” On page 20 of Assurance’s Responses to Staff’s First Set of Data Requests, Assurance states that it does not need additional time to complete the types of upgrades referred to in ARSD 20:10:32:43(5).

¹⁰ Petition, p. 10-11.

Pursuant to ARSD 20:10:32:43.03, an applicant must demonstrate its ability to remain functional in emergency situations including a demonstration that it has a reasonable amount of back-up power to remain functional in emergency situations without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. Through the Petition and responses to Data Requests, Assurance demonstrated that it has the ability to remain functional in emergency situations.¹¹

Pursuant to ARSD 20:10:32:43.04, an applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards. Assurance has demonstrated that it will satisfy this rule.¹²

ARSD 20:10:32:43.05 requires that a requesting company demonstrate that it offers a local usage plan comparable to the one offered by the incumbent local exchange carrier in the service areas for which the applicant seeks designation. This requirement was removed from federal law back in 2012.¹³ Therefore, the Commission finds Assurance need not submit a local usage plan.

ARSD 20:10:32:43.06 requires an applicant requesting ETC designation to certify that it will provide equal access to long distance carriers if no other eligible telecommunications carrier is providing equal access within the service area. This requirement was removed from federal law in 2012. Therefore, the Commission finds such certification is not required in this matter.

In order to designate an applicant as an ETC, the Commission must determine whether such designation is in the public interest pursuant to ARSD 20:10:32:43.07. The Commission finds that Assurance's Petition is in the public interest. As a Lifeline-only ETC it would serve the needs of low-income customers by increasing customer choice and offering a zero-cost option for Lifeline customers. After evaluating the public interest considerations, the Commission finds that the designation of Assurance will bring the benefits of increased consumer choice and it has committed to providing quality services to the designated service area. The Commission finds the designation of Assurance as a Lifeline-only ETC is in the public interest.

ARSD 20:10:32:43.07 requires the Commission to conduct a creamskimming analysis if an applicant seeks designation in the study area of a rural telephone company. The FCC has stated that creamskimming is not a relevant concern regarding the designation of a Lifeline-only ETC.¹⁴ Therefore, the Commission finds that a creamskimming analysis is not required.

Pursuant to 47 C.F.R. § 54.201(h), a state commission may not designate a Lifeline-only ETC "unless the carrier seeking such designation has demonstrated that it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E of this part." The Petition and Response to Staff Data Request 1 provided financial and technical information about Assurance and T-Mobile. The Commission finds that Assurance has demonstrated it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E.

It is therefore

ORDERED, that the request for approval of Joint Stipulation is hereby granted. It is further

ORDERED, that Assurance is hereby designated as an Eligible Telecommunications Carrier in rural and nonrural areas, exclusive of tribal lands, in South Dakota for the purpose of receiving federal low-income universal service support for prepaid wireless Lifeline services. It is further

ORDERED, that this Eligible Telecommunications Carrier designation shall be conditioned upon those

¹¹ Staff Memorandum, p. 5.

¹² Staff Memorandum, p. 5.

¹³ 47 C.F.R. § 54.202 (2012).

¹⁴ *In the Matter of Telecommunications Carriers Eligible for Support, Lifeline and Link Up Reform*, Memorandum Opinion and Order, WC Docket No. 11-42, FCC 13-44, ¶ 13.

representations and commitments made by Assurance both orally and in writing in this docket.

Dated at Pierre, South Dakota, this 15TH day of May 2024.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.

By: *Kristie Siegen*

Date: 15 May 2024

BY ORDER OF THE COMMISSION:

Kristie Siegen

KRISTIE FIEGEN, Chairperson

Gary Hanson

GARY HANSON, Commissioner

Chi Nelson

CHRIS NELSON, Commissioner