

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

June 1, 2023

IN RE:)	
)	
PETITION OF DISH WIRELESS LLC D/B/A GEN)	DOCKET NO.
MOBILE FOR DESIGNATION AS AN ELIGIBLE)	23-00010
TELECOMMUNICATIONS CARRIER IN THE)	
STATE OF TENNESSEE FOR THE LIMITED)	
PURPOSE OF OFFERING LIFELINE SERVICE TO)	
QUALIFIED HOUSEHOLDS)	

ORDER DESIGNATING DISH WIRELESS D/B/A GEN MOBILE AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER

This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones, Commissioner Robin L. Morrison, Commissioner Kenneth C. Hill ¹ and Commissioner David Crowell of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on May 8, 2023, for consideration of the *Petition for Designation as an Eligible Telecommunications Carrier* (“*Petition*”) filed by DISH Wireless, LLC d/b/a Gen Mobile (“DISH Wireless” or “Company”) on February 9, 2023.

BACKGROUND AND PETITION

In accordance with Tennessee law, the Commission annually certifies wireline companies as an Eligible Telecommunications Carrier (“ETC”) verifying compliance with federal standards. Orders designating wireline companies as ETCs are submitted to the Federal Communications Commission (“FCC”) so that these Tennessee companies can receive federal

¹ Commissioner Kenneth C. Hill was absent from the May 8, 2023 Commission Conference and did not participate in the deliberations or vote in this docket.

funding for certain selected services, including Lifeline service. Prior to a Tennessee legislative change adopted in 2022, the Commission lacked authority to designate non-wireline companies, e.g., wireless or cellular providers, as ETCs. In March 2022, Tennessee Public Acts Chapter 789 became effective providing the Commission with the authority to designate cellular providers as ETCs. The newly enacted language provides:

Notwithstanding § 65-4-101(6)(A)(vi), the Commission may upon petition designate a provider or reseller of domestic public cellular radio telephone service as an eligible telecommunications carrier pursuant to 47 C.F.R. § 54.201 for purposes of providing Lifeline service.²

On February 9, 2023, DISH Wireless filed its *Petition* for the purpose of providing Lifeline service to qualifying Tennessee consumers. In its *Petition*, DISH Wireless states that it satisfies all the statutory and regulatory requirements for designation as an ETC, including Tenn. Code Ann. § 65-4-104 as amended in 2022. Further in support of its position, DISH Wireless states it is an established wireless carrier holding ETC status in two (2) other States and has applied for ETC designation in six (6) other states and the District of Columbia.³ As support, the Company states that it is not required to obtain an approved FCC Compliance plan in accordance with the 2012 Federal Communications Commission (“FCC”) order establishing Lifeline reforms⁴ because the Company is deploying facilities-based wireless voice and broadband services in Tennessee and other states.⁵

DISH Wireless states that it seeks ETC designation solely to provide Lifeline service to qualifying Tennessee consumers and it will pass on all support received from the Universal Service Fund (“USF”) to its qualified Lifeline customers. Further, DISH Wireless has

² Tenn. Code Ann. §65-4-104(c) (West 2022). *See also* 2022 Tenn. Pub. Acts Ch. 789.

³ *Petition*, p. 3 (February 9, 2023).

⁴ *Lifeline and Link Up Reform and Modernization et al*, Report and Order and Further Notice of Proposed Rulemaking, WC Dkt. Nos. 11-42 *et al.*, CC Dkt. No. 96-45, FCC 12-11, pp.158-159 (February 6, 2012).

⁵ *Petition*, p. 8 (February 9, 2023).

implemented measures and procedures to prevent waste, fraud, and abuse to safeguard the USF.⁶ The Company also submitted a signed Affidavit by Robert Yap, Vice President, affirming that the matters, facts, and statements, set forth in the Petition are true to the best of his knowledge and outlining the Company's qualifications to satisfy ETC requirements.⁷

STANDARD FOR COMMISSION APPROVAL

Commission approval is required for designation as an ETC pursuant to the Telecommunications Act of 1996, 47 U.S.C.A § 214(e), which provides, in relevant part:

(e) Provision of universal service

(1) Eligible telecommunications carriers. A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

(2) Designation of eligible telecommunications carriers

A State Commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon 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 eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone

⁶ *Id.* at 1, 14-15.

⁷ Robert Yap, Vice President Of Gen Mobile at DISH Wireless, LLC, signed Affidavit (February 27, 2023).

company, the State commission shall find that the designation is in the public interest.⁸

FINDINGS AND CONCLUSIONS

State Commissions have been designated to certify ETCs that meet the requisite federal criteria, so that such designated companies may in turn receive federal support for providing certain services. In this case, DISH Wireless is seeking federal low-cost funds which are designated to provide Lifeline service to qualified Tennessee consumers.

According to information provided by the Company, DISH Wireless has been offering the requisite services (Lifeline) as defined in Section 254(c) of the Federal Telecommunications Act for numerous years in other states. The Company also advertises the availability of the services and otherwise meets the eligibility criteria for designation as an ETC. Further, this request to become certified as an ETC certainly meets the public interest as approval of this petition will allow DISH Wireless access to federal funds to greatly assist in the provisioning of wireless voice service as well as broadband service in areas that otherwise might not receive such essential service.

Upon consideration of the *Petition*, Affidavit, and the entire record in this docket, the voting panel found that DISH Wireless meets the qualifications necessary to be designated as an ETC. Further, the panel found that it is in the public interest to designate DISH Wireless as an ETC. Therefore, the voting panel unanimously approved the *Petition*.

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Designation as an Eligible Telecommunications Carrier* filed DISH Wireless, LLC d/b/a Gen Mobile is approved, designating DISH Wireless, LLC d/b/a Gen Mobile as an Eligible Telecommunications Carrier in the State of Tennessee.

⁸ 47 U.S.C.A. § 214(e)(1)-(2).

2. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order.

3. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

TENNESSEE PUBLIC UTILITY COMMISSION:

Chairman Herbert H. Hilliard
Vice Chairman David F. Jones
Commissioner Robin L. Morrison, and
Commissioner David Crowell, concurring.

None dissenting.

ATTEST:

A handwritten signature in dark ink, appearing to read "Earl Taylor" followed by a stylized monogram or initials "abh".

Earl R. Taylor, Executive Director