

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

March 28, 2025

IN RE:

PETITION OF GO MD USA LLC FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN
THE STATE OF TENNESSEE FOR THE LIMITED
PURPOSE OF PROVIDING LIFELINE SERVICE TO
QUALIFYING CUSTOMERS

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DOCKET NO.
24-00046

ORDER DENYING DESIGNATION AS
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

This matter came before Chairman David F. Jones, Vice Chairman John Hie, Commissioner Robin L. Morrison, Commissioner Clay R. Good, and Commissioner Kenneth C. Hill 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 February 18, 2025, for consideration of the *Petition of GO MD USA LLC for Designation as an Eligible Telecommunications Carrier in the State of Tennessee for the Limited Purpose of Providing Lifeline Service to Qualifying Customers* (“*Petition*”) filed by GO MD USA, LLC (“GO MD USA” or “Company”) on July 22, 2024.

BACKGROUND AND PETITION

Under Tennessee law, the Commission annually certifies wireline companies as Eligible Telecommunications Carriers (“ETC”) upon verifying compliance with federal standards.¹ Orders designating wireline companies as ETCs are submitted to the Federal Communications Commission (“FCC”) to allow designated Tennessee companies to receive federal funding for

¹ 47 C.F.R. § 54.314 (2023). *See also* Tenn. Code Ann. § 65-4-104(c) (2024).

certain services, including Lifeline service. Prior to Tennessee legislative changes in 2022, the Commission lacked authority to designate non-wireline companies, e.g., wireless or cellular providers, as ETCs. An amendment to Tenn. Code Ann. § 65-4-104 adopted and made effective in 2022 provides the Commission authority to designate cellular providers as ETCs. The authorizing language states:

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 July 22, 2024, GO MD USA filed its *Petition* for the purpose of providing Lifeline service to qualifying Tennessee consumers. In its *Petition*, GO MD USA states that it meets all the statutory and regulatory requirements for designation as an ETC, including the recently amended Tennessee Code Annotated Section 65-4-104. Further, GO MD USA states it filed applications for ETC designation in several other states, including Alabama, California, Connecticut, Delaware, Florida, New Hampshire, North Carolina, and the District of Columbia.³ The Company also states that it is authorized by the FCC to participate in the Affordable Connectivity Program (“ACP”) throughout the United States, including Tennessee.⁴ As support, the Company filed proposed Lifeline plans, sample advertising, service area zip codes, and bios for key personnel.⁵

Finally, GO MD USA states that it seeks ETC designation solely to provide Lifeline service to qualifying Tennessee consumers and, “it will not (and is not eligible to) seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of participating in the Link-Up program or high-cost program.”⁶ The Company also filed a signed affidavit by Apollo Arcallana,

² Tenn. Code Ann. § 65-4-104(c) (2024). *See also* 2022 Tenn. Pub. Acts Ch. 789.

³ *Petition*, pp. 8-10 (July 22, 2024).

⁴ *Id.* at 10.

⁵ *Id.* at 6 and Exhs. 2, 3, 4, and 6.

⁶ *Id.* at 7-8.

President of GO MD USA, affirming that the matters, facts and statements set forth in the Petition are true to the best of his knowledge.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 company, the State commission shall find that the designation is in the public interest.⁸

⁷ GO MD USA, LLC Responses to Commission Data Request Due September 13, 2024, pp. 29-30 (November 13, 2024).

⁸ 47 U.S.C.A. § 214(e)(1)-(2).

In 2012, the FCC issued an order that implemented several changes to the Lifeline program. These changes largely allowed for the participation of wireless carriers in the Lifeline program by granting forbearance from the “own-facilities” requirement upon certain conditions.

[W]e condition this grant of forbearance from the ‘own-facilities’ requirement by requiring each carrier to submit to the Bureau for approval a compliance plan that (a) outlines the measures the carrier will take to implement the obligations contained in this Order, including but not limited to the procedures the ETC follows in enrolling a subscriber in Lifeline and submitting for reimbursement for that subscriber from the Fund, materials related to initial and ongoing certifications and sample marketing materials, as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary; and (b) provides a detailed description of how the carrier offers service, the geographic areas in which it offers service, and a description of the carrier’s various Lifeline service plan offerings, including subscriber rates, number of minutes included and types of plans available.⁹

The FCC provides additional requirements in the Code of Federal Regulations. 47 C.F.R. § 54.201(d) states that a common carrier that is designated as an ETC must offer services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services....”¹⁰ State Commissions are prohibited from granting an ETC designation to “a telecommunications carrier that offers the services supported by federal universal support mechanisms exclusively through the resale of another carrier’s services.”¹¹ Subsection (h) establishes requirements for consideration by state commissions for designation of ETC for Lifeline only services, stating:

A state commission shall not designate a common carrier as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part unless the carrier seeking such designation has demonstrated that it is financially and

⁹ *In the matter of Lifeline & Link Up Reform and Modernization Lifeline & Link Up Fed. State Joint Bd. On Universal Serv. Advancing Broadband Availability Through Digital Literacy Training*, 27 FCC Rcd. 6656, 6816 (2012) (“2012 Lifeline Reform Order”).

¹⁰ 47 C.F.R. § 54.201(d)(1).

¹¹ 47 C.F.R. § 54.201(i).

technically capable of providing the supported Lifeline service in compliance with subpart E of this part.¹²

FINDINGS AND CONCLUSIONS

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

According to information provided by the Company, GO MD USA provides resold wireless telecommunications service in Tennessee utilizing the brand name of GO MD USA Mobile as well as other names.¹³ While GO MD USA states that it will provide service utilizing a combination of its own facilities and resale of another carrier's services, the Company has only provided to the Commission evidence of its resale agreements with other carriers.¹⁴ The Company states that it is building a fiber system within the State, but provides no evidence of such network. As a result of its assertion that the Company provides service using its own facilities, GO MD USA has not submitted an FCC Approved Compliance Plan and argues that it is exempt from this requirement.

The panel finds that the evidence contained in the record, consisting of information provided by the Company, indicates that GO MD USA is a reseller of another carrier's services. Accordingly, there is insufficient evidence to support the provision of service through the Company's own facilities. Therefore, the evidentiary record indicates the Company provides telecommunications services exclusively as a reseller within the context of FCC rules instead of utilizing a combination of its own facilities and resale of another carrier's services as stated in the

¹² 47 C.F.R. § 54.201(h).

¹³ *Petition*, p. 9 (July 22, 2024).

¹⁴ *Id.* at 17. *See also* GOMD USA, LLC Responses to Commission Data Request Due September 13, 2024, pp. 2, 31-77 (November 13, 2024).

Petition. A company that provides exclusively resold telecommunications services must submit to the Commission an FCC Approved Compliance Plan in order to satisfy federal eligibility requirements. In its *2012 Lifeline Reform Order*, the FCC states that the “review and approval of all compliance plans is a critical element of our action today.”¹⁵ Requiring the review and approval of compliance plans, “will give the states and the Commission the ability to evaluate the Lifeline providers’ offerings to low-income consumers and adherence with program rules before such companies may receive any Lifeline funds.”¹⁶ The Compliance Plan is essential evidence that ensures that the applicant has policies and procedures safeguarding the Lifeline program from waste, fraud, and abuse.¹⁷ The panel finds that GO MD USA has failed to provide adequate proof that the Company will not be acting exclusively as a reseller, and, as a result, has not provided sufficient evidence that the Company meets federal eligibility requirements for ETC designation.

Further, the Company’s failure to produce sufficient evidence that it meets the federal requirements for ETC designation, its statements concerning the GO MD USA facilities used to provide service, and the Company’s resistance to providing an FCC Approved Compliance Plan, evidences a lack of expertise and/or experience in providing services under the applied for designation. The ability to determine the scope of the services to be provided and the facilities to be used to provide such services is a basic expectation for carriers and GO MD USA has failed to clearly articulate these factors in its application. Therefore, the panel finds that GO MD USA LLC has failed to prove that it possesses the technical capability to provide Lifeline services in compliance with federal requirements.

Because GO MD USA has not provided adequate proof that it meets ETC designation eligibility requirements, and its failure to provide proof that it possesses the technical capability to

¹⁵ *2012 Lifeline Reform Order*, 27 FCC Rcd. 6656, 6813 (2012).

¹⁶ *Id.*

¹⁷ *Id.*

provide Lifeline services, the panel finds that it is not in the public interest to designate GO MD USA as an ETC. Therefore, based upon these findings and the entire evidentiary record, the panel unanimously voted to deny GO MD USA's *Petition*.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of GO MD USA LLC for Designation as an Eligible Telecommunications Carrier in the State of Tennessee for the Limited Purpose of Providing Lifeline Service to Qualifying Customers* seeking designation as an eligible telecommunications carrier is denied.

2. Any person(s) aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.

3. Any person(s) 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 (60) days from the date of this Order.

FOR TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman David F. Jones,
Vice Chairman John Hie,
Commissioner Robin L. Morrison,
Commissioner Clay R. Good, and
Commissioner Kenneth C. Hill concurs.**

None dissenting.

ATTEST:

A handwritten signature in dark ink, appearing to read "Earl Taylor" with a stylized flourish at the end.

Earl R. Taylor, Executive Director