

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

July 9, 2025

IN RE:)	DOCKET NO.
)	24-00046
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)	

ORDER DENYING MOTION FOR RECONSIDERATION

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 May 29, 2025. The panel convened to consider the *Motion for Reconsideration* (“*Motion*”) of GO MD USA, LLC (“GO MD” or the “Company”) filed on April 15, 2025.

I. BACKGROUND AND *MOTION*

A. *APPLICATION AND ORDER*

On July 22, 2024, GO MD filed a *Petition for Designation as an Eligible Telecommunications Carrier* (“*Application*”) to provide Lifeline service to qualifying Tennessee consumers. In its *Application*, GO MD stated that it meets all the statutory and regulatory requirements for designation as an Eligible Telecommunications Carrier (“ETC”), including Tennessee Code Annotated Section 65-4-104 as recently amended. Further, in support of its position, GO MD asserted that it is a connectivity company headquartered in Tennessee that has served as a disruptive force in mobile telehealth technologies.

The Company did not submit a Federal Communications Commission (“FCC”) approved compliance Plan and asserted that it is not required to obtain one.¹ GO MD stated that it is an approved provider in the FCC’s Affordable Connectivity Program throughout the U.S., including Tennessee.² The Company also filed a signed affidavit by Apollo Arcallana, President of GO MD, affirming that the matters, facts, and statements set forth in the *Application* are true to the best of his knowledge.³

The Tennessee Public Utility Commission (“TPUC” or “Commission”) considered the *Application* at its regularly scheduled Commission Conference on February 18, 2025. The Commission denied GO MD’s *Application* for ETC designation. The Commission found that the Company did not present evidence that it provided service utilizing its own facilities and is exclusively a reseller of another carrier’s services.⁴ Based upon this finding, the Commission further found that to meet federal requirements for ETC designation, the Company must submit a Compliance Plan approved by the FCC. While the Company provided a proposed Compliance Plan, the FCC had not approved it. The Commission held that GO MD failed to prove that it meets federal eligibility requirements for ETC designation, that the Company was unable to prove that it possesses the technical capability to provide Lifeline services in compliance with federal requirements, and that it is not in the public interest to designate GO MD as an ETC.⁵

¹ *Application*, pp.9, 17 (July 22, 2024).

² *Id.* at 10.

³ GO MD USA, LLC Responses to Commission Data Request Due September 13, 2024, pp. 29-30 (November 13, 2024).

⁴ *Order Denying Designation as an Eligible Telecommunications Carrier*, pp. 5-6 (March 28, 2025) (“*Order*”).

⁵ *Id.* at 6-7.

B. MOTION FOR RECONSIDERATION

On April 15, 2025, GO MD filed its timely *Motion*. In support of its *Motion*, GO MD filed the Affidavit of Company President, Apollo Arcallana,⁶ the Declaration of Company General Counsel, Mark J. Schirmer,⁷ and a Compliance Plan.⁸ The FCC has not approved the Compliance Plan.⁹

In its *Motion*, the Company asserted that the Commission's *Order* is "factually flawed and legally unsupportable."¹⁰ GO MD refuted the Commission's finding that GO MD presented no evidence that the Company will provide Lifeline services utilizing its own facilities. The Company asserted that the sworn statement of GO MD's President submitted with the *Application* affirms that the Company would use a combination of its own facilities and resold services.¹¹ GO MD also argued that the Company's requirement to submit an FCC-approved Compliance Plan is arbitrary and capricious. In support of this argument, GO MD stated that the FCC has not acted upon or approved any original Compliance Plans in more than three years and therefore, "creates an insurmountable barrier to entry for new carriers committed to serving low-income communities."¹² The Company contended that the Commission's denial of GO MD's *Application* undermines the FCC's commitment to technological neutrality and that it is contrary to the purposes of the Tennessee Broadband Business Certainty Act of 2006, Tenn. Code Ann. § 65-5-201 *et seq.* GO MD argued that, "[r]equiring a company to do the impossible is, per se, arbitrary and capricious,

⁶ Affidavit of Apollo Arcallana, President of GO MD USA, LLC in support of GO MD USA, LLC Petition for Limited Designation as an Eligible Telecommunications Carrier to Provide Lifeline Services to Consumers in Tennessee (April 15, 2025).

⁷ Declaration of Mark J. Schirmer In Support of the GO MD USA LLC Motion to Reconsider (April 15, 2025).

⁸ *Petition for Reconsideration*, Exh. 1 (April 15, 2025).

⁹ *Id.* at 4-5.

¹⁰ *Id.* at 4.

¹¹ *Id.*

¹² *Id.* at 5.

especially where, as here, the responsibility for designated [sic] an ETC has been expressly committed to the Commission.”¹³

As additional support for its *Motion*, GO MD submitted the declaration of its General Counsel, Mark J. Schirmer.¹⁴ The declaration “supplements the record, providing evidence that could help the Commission review its decision and evidence that GO MD was not asked to provide – and did not understand was necessary under the law.”¹⁵ Mr. Schirmer stated that the Company will provide voice and data services using a combination of its own facilities and the facilities of other companies. He details the equipment and functions of various network equipment used to provide services.¹⁶ The Company’s “Core Network,” located at its offices in Memphis, Tennessee, provides consumer services such as signing up individuals for service, checking service eligibility, client management, financial tracking, intelligent routing, secure authentication, and SIM provisioning.¹⁷ Mr. Schirmer testified that the Company will utilize micro towers, where practicable, to facilitate and enhance voice and data service.¹⁸ He also stated, “[a]t least initially, voice traffic will be routed over T-Mobile or AT&T networks for high-quality calling.”¹⁹ A customer’s data service will flow through a fiber connection if connected to a micro tower. Otherwise, data traffic flows directly over a T-Mobile or AT&T network.²⁰ In a text-based flowchart, Mr. Schirmer indicated that voice traffic is routed exclusively over T-Mobile or AT&T networks. In contrast, data traffic is similarly routed unless connection to a micro tower is accomplished.²¹ Mr. Schirmer also stated that the FCC has not acted upon a wholly new

¹³ *Id.* at 7.

¹⁴ Declaration of Mark J. Schirmer in Support of the GO MD USA LLC Motion to Reconsider (April 15, 2025).

¹⁵ *Id.* at 1.

¹⁶ *Id.* at 2-5.

¹⁷ *Id.* at 2-3.

¹⁸ *Id.* at 4.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 5-6.

compliance plan within the past three years. Therefore, requiring an FCC-approved compliance Plan establishes an impossible standard.²²

The Commission issued a *Notice Accepting Petition for Reconsideration with Further Proceedings to Be Determined* (“Notice”) on April 28, 2025. The *Notice* indicates that the Commission accepts the *Motion* to prevent it from being deemed denied by operation of law. The *Notice* further states that the Commission will consider the Motion later, as established by a separate notice.²³ The *Motion* was placed on the agenda for consideration during the regularly scheduled Commission Conference on May 29, 2025.

II. STANDARD OF REVIEW

A. RECONSIDERATION AUTHORITY

The Uniform Administrative Procedures Act (“UAPA”) establishes the process for a party to request reconsideration of an agency order in Tenn. Code Ann. § 4-5-317. The statutory provisions are also found in TPUC Rule 1220-01-02-.20. Generally, these provisions provide that when a party files a petition for reconsideration, the matter shall be disposed of by the same person or persons rendering the original order. Argument is limited to the existing record, but new evidence may be considered if the party proposing such evidence for consideration shows good cause for failure to introduce the evidence in the original proceeding.²⁴

B. STATE LAW REQUIREMENTS FOR ETC DESIGNATION

The Commission annually certifies wireline companies as ETCs in Tennessee, in accordance with federal standards, and submits the certification to the FCC so that Tennessee wireline companies may receive federal funding for certain selected services, including Lifeline service. Until a 2022 change in state law, the Tennessee Commission lacked statutory authority to

²² *Id.* at 6-7.

²³ *Notice Accepting Petition for Reconsideration with Further Proceedings to Be Determined* (April 28, 2025).

²⁴ Tenn. Code Ann. § 4-5-317. *See also* Tenn. R. & Regs. 1220-01-02-.20.

designate non-wireline companies, e.g., wireless or cellular providers, as ETCs. These companies, therefore, had to apply and receive certification as an ETC from the FCC to receive any federal funding for which they may be eligible. The FCC accepts ETC designation from states having the required authority as long as the ETC certification meets the federal eligibility requirements.

Tenn. Code Ann. § 65-4-104 authorizes the Commission to designate wireless providers as ETCs. This legislation 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.²⁵

The Commission determines an applicant's eligibility for ETC designation by examining the application according to the requirements established in federal regulations.²⁶

C. FEDERAL LAW ELIGIBILITY REQUIREMENTS FOR ETC DESIGNATION

The Federal Telecommunications Act establishes the minimum eligibility requirements to be used by state Commissions certifying carriers as ETCs.²⁷ Section 214(e) of the Telecommunications Act states:

(1) ELIGIBLE TELECOMMUNICATIONS CARRIERS. A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6)²⁸ 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

²⁵ Tenn. Code Ann. § 65-4-104(c) (2022).

²⁶ *Id.*

²⁷ 47 U.S.C.A. § 214(e) (West).

²⁸ Section 214(e)(3), (Designation of ETCs for Unserved Areas) and Section 214(e)(6), (Common Carriers not Subject to State Commission Jurisdiction), are not applicable to the instant *Petition*.

(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.²⁹

The FCC issued a 2012 order that implemented several changes to the Lifeline program. These changes allowed wireless carriers to participate in the program by granting forbearance, under certain conditions, from requiring the carrier to own facilities over which service is provided.

[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.³⁰

²⁹ 47 U.S.C.A. § 214(e) (West).

³⁰ *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”).

The FCC provides additional requirements in the Code of Federal Regulations. 47 C.F.R. § 54.201(d) states that a common carrier 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...”³¹ The *2012 Lifeline Reform Order* clarifies the “own facilities” requirement, stating that “a carrier’s facilities that are not being used to route or transmit *voice telephony services* do not qualify as ‘facilities’ to meet the ETC requirements...”³² In addition, the FCC states:

On December 23, 2011, the Commission affirmed that only carriers that provide voice telephony as defined under section 54.101(a), as amended, using their own facilities will be deemed to meet the requirements of section 214(e)(1).¹²⁰⁴ Thus, a Lifeline-only ETC does not meet the “own-facilities” requirement of section 214(e)(1) if its only facilities are those used to provide functions that are no longer supported “voice telephony service” under amended rule 54.101, such as access to operator service or directory assistance. The Commission stated that to be in compliance with the rules, Lifeline-only carriers must either use their own facilities, in whole or in part, to provide the supported “voice telephony service,” or obtain forbearance from the “own-facilities” requirement from the Commission.³³

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.”³⁴ Subsection (h) establishes additional 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 technically capable of providing the supported Lifeline service in compliance with subpart E of this part.³⁵

³¹ 47 C.F.R. § 54.201(d)(1).

³² *Id.* at 6583 (emphasis added).

³³ *Id.* at 6583-6584.

³⁴ 47 C.F.R. § 54.201(i).

³⁵ 47 C.F.R. § 54.201(h).

III. FINDINGS AND CONCLUSIONS

State Commissions have been designated to certify telecommunication providers as ETCs, provided that the Commission finds that the applicant meets the aforementioned criteria. Carriers seek ETC certification so that they may receive federal support for providing certain services. In this particular case, GO MD is seeking federal low-cost funds, which are designated to provide Lifeline service to qualified Tennessee consumers.

According to information provided by the Company in its *Application*, GO MD will provide service utilizing a combination of its own facilities and resale of another carrier's facilities.³⁶ For voice telephony services, GO MD provides resold wireless telecommunications services in Tennessee under the brand name GO MD USA Mobile, among other names.³⁷ While GO MD stated that it will provide service utilizing a combination of its own facilities and resale of another carrier's services, the evidence in the *Application* indicates that voice telephony services are provided through resale agreements.³⁸ The Company stated that it is building a fiber system within the State, but contradicted this statement in its responses to data requests, indicating that no active facilities are utilized and that if active facilities are required prior to approval, one micro tower can be installed.³⁹ GO MD did not submit an FCC-approved Compliance Plan because it asserts that the company provides service using its own facilities. It argues that it is exempt from this requirement.⁴⁰

³⁶ *Petition*, p. 17 (July 22, 2024). *See also* GO MD USA, LLC Responses to Commission Data Request Due September 13, 2024, pp. 2, 31-77 (November 13, 2024).

³⁷ *Petition*, p. 9 (July 22, 2024). *See also* GO MD USA, LLC Responses to Commission Data Request Due September 13, 2024, pp. 2, 31-77 (November 13, 2024).

³⁸ *Id.* at 17. *See also* GO MD USA, LLC Responses to Commission Data Request Due September 13, 2024, pp. 2, 31-77 (November 13, 2024).

³⁹ GO MD USA, LLC Responses to Commission Data Request Due September 13, 2024, pp. 2, 31-77 (November 13, 2024).

⁴⁰ *Petition*, p. 17 (July 22, 2024).

In its *Motion*, GO MD asserted that it is exempt from the FCC-approved Compliance Plan requirement because it provides services through a combination of its own facilities and the resale of other carriers' facilities. The Company argued that it presented evidence to this effect in its *Application* of GO MD's own facilities and resale of other carriers' facilities.⁴¹ The Company further clarified how voice and data services will be provided in the Declaration of its General Counsel. Mr. Schirmer declared that voice traffic will be routed over the systems of other carriers at least initially and until a micro tower is installed.⁴² He further stated that voice traffic will be "[e]xclusively routed over T-Mobile or AT&T networks."⁴³ Later in his declaration, Mr. Schirmer asserted that while the other carriers are the primary voice providers, the client's network setup dictates the routing of data and voice services, defaulting to other carrier networks if no micro tower connection is available.⁴⁴ Services provided through the Company's "Core Network" are services related to customer signup, eligibility verification, customer support, billing, and SIM activation and management.⁴⁵

While generally, a reconsideration is limited to the evidence within the record, the panel may consider new evidence submitted by the party seeking reconsideration if good cause is shown to include the new evidence. In this instance, GO MD submitted the Affidavit of Company President, Apollo Arcallana, the Declaration of Company General Counsel, Mark J. Schirmer, and a proposed Compliance Plan for consideration as new evidence. The proposed Compliance Plan attached to the *Motion* and the Affidavit of Apollo Arcallana are duplicates of items already in the evidentiary record. Therefore, there is no need to consider whether to admit these items for

⁴¹ *Petition for Reconsideration*, p. 4 (April 15, 2025).

⁴² Declaration of Mark J. Schirmer in Support of the GO MD USA LLC Motion to Reconsider pp. 4-7 (April 15, 2025).

⁴³ *Id.* at 5.

⁴⁴ *Id.* at 6.

⁴⁵ *Id.* at 2-3.

consideration as new evidence. They are already in the evidentiary record. The Declaration of Mr. Schirmer is new evidence that was not previously part of the record. The declaration provides clarifying information that helps determine whether GO MD provides voice telephony services utilizing its facilities or exclusively as a reseller of other carriers' services. Mr. Schirmer stated that his declaration includes information that he was not asked to provide and was not aware was needed. The panel noted that the Company failed to respond to data requests in a timely manner, even after an extension was granted, and only responded after filing a Notice establishing a deadline for submission of responses to avoid administrative closure of this docket. However, the panel found that the Declaration of Mark J. Schirmer should be admitted for consideration as new evidence for good cause shown.

Based upon the supplemented evidentiary record and the argument of counsel in the Company's *Motion*, the panel found that the evidence demonstrates that GO MD does not provide voice telephony service over any of its own facilities. While the Company submitted sworn statements with broad general assertions that it will provide service utilizing its own facilities, the same sworn testimony gives a contradictory indication that voice telephony services will be provided exclusively over the networks of other carriers. Therefore, the panel unanimously found that GO MD is a reseller of wireless voice telephony services.

GO MD can obtain an ETC designation as a reseller of telephony voice services. However, the Company must comply with federal eligibility guidelines to qualify.⁴⁶ An FCC-approved Compliance Plan is one federal requirement for designation as an ETC by a telephony voice service reseller.⁴⁷ GO MD has included a Compliance Plan with its *Application* and *Motion*. However, the FCC has neither received nor approved this Compliance Plan from GO MD. Therefore, the panel

⁴⁶ See Tenn. Code Ann. § 65-4-104(c); See also 47 U.S.C.A. § 214(e) (West); 47 C.F.R. § 54.201.

⁴⁷ See *2012 Lifeline Reform Order*, 27 FCC Rcd. 6656, 6816 (2012).

finds that GO MD fails to meet the requisite federal requirements for ETC designation because it has not provided an FCC-approved Compliance Plan.

The Company contended that requiring an FCC-approved Compliance Plan is arbitrary and capricious because the FCC has not approved any original Compliance Plans in more than three years. GO MD asserted that the requirement creates an insurmountable barrier to new entrants to the Lifeline market.⁴⁸ GO MD further argued that such requirement is contrary to the competition-promoting purpose of the Tennessee Broadband Business Certainty Act of 2006, Tenn. Code Ann. § 65-5-201, *et seq.*

The panel found these arguments without merit. The Commission has limited statutory authority concerning ETC designations. TPUC has no general supervisory or regulatory authority over wireless telecommunications or broadband service providers. The Commission has a ministerial duty in considering an application for ETC designation, limited to determining whether the applicant meets federal requirements for such designation. The Commission has no discretion to alter or amend the federal requirements and has no authority within Tennessee law to require anything additional to or delete from the federal requirements. The Commission's decision to deny GO MD's *Application* determined whether GO MD is a provider or reseller of wireless telecommunications services and whether the Company meets the appropriate applicable federal requirements.

Upon consideration of the entire evidentiary record, including the additional evidence provided and admitted for consideration, the panel determined that the Company's *Motion* should be denied. The evidence indicates that voice telephony services will be provided exclusively as a reseller of another carrier's services. While there is evidence that the Company owns facilities that

⁴⁸ *Petition for Reconsideration*, pp. 4-5 (April 15, 2025).

currently or in the future will route data traffic, the Company's testimony is that voice services, which are the paramount consideration under the *2012 Lifeline Order*, will be provided exclusively over other carriers' networks. In addition, the Company does not currently have the facilities to connect client devices to the Company's primary operations center.

A reseller of wireless telecommunications services must provide to the Commission an FCC-approved Compliance Plan in order to satisfy federal eligibility requirements. The Commission does not have the authority to exempt GO MD from this requirement. Nothing in the record would necessitate a determination different from the Commission's *Order Denying Designation as an Eligible Telecommunications Carrier*. Therefore, the *Motion for Reconsideration* is denied. The Company may reapply for ETC designation when the Company meets federal eligibility requirements.

IT IS THEREFORE ORDERED THAT:

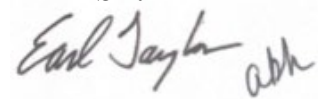
1. The *Motion for Reconsideration*, filed by GO MD USA, LLC, is denied.
2. Any person aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

FOR THE 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, concurred.**

None dissented.

ATTEST:

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

Earl R. Taylor, Executive Director