



Consumer Issues and ETC Designation
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ETC Designation

■ Section 214 of the Act

- Only ETCs are eligible to receive high cost and low income universal service support
- All ETCs must offer the services supported by universal service throughout their service areas using, at least in part, their own facilities
- All ETCs must advertise the availability of and charges for those services using media of general distribution
- ETC designations are generally done at the state level
- However, the Commission may perform ETC designations for carriers not subject to state jurisdiction
 - Wireless carriers (in some states)
 - Carriers serving Tribal lands



ETC Designation

■ **Section 214(e)(6) Public Notice (1997)**

- Imposed the following requirements on each carrier seeking ETC designation from the Commission
 - Certify and briefly state facts demonstrating that the carrier is not subject to state jurisdiction
 - Certify that it offers or intends to offer all services designated for support by the Commission
 - Certify that it offers or intends to offer the supported services, at least in part, over its own facilities
 - Describe how it will advertise the availability of supported services and charges using media of general distribution
 - Describe in detail the geographic service area for which it seeks designation



ETC Designation

■ **Subsequent Commission Orders of Note**

- ***Virginia Cellular Order (2004)***: The Commission utilized a new public interest analysis and imposed ongoing conditions and reporting requirements for competitive ETC
- ***Highland Cellular Order (2004)***: The Commission concluded, among other things, that a competitive carrier serving in a rural telephone company's service area may not be designated as an ETC for a service area smaller than a wire center



ETC Designation

- ***ETC Designation Order (2005):*** The Commission adopted more rigorous requirements for all carriers seeking ETC designation from the Commission and encouraged states to adopt them. Each applicant must:
 - ***Provide a 5-year plan demonstrating its use of high cost support***
 - ***Demonstrate its ability to remain functional in emergency situations***
 - ***Demonstrate that it will satisfy consumer protection and service quality standards***
 - ***Offer local usage plans comparable to the incumbent***
 - ***Acknowledge that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations***



Forbearance

- Companies providing service purely through resale must seek forbearance from the Commission's facilities requirement before being designated as ETCs and qualifying for high cost or low income support
- The focus of today's presentation will be on companies seeking to qualify for low income support



Forbearance

- **Forbearance Petitions Granted for the Limited Purpose of Qualifying to Receive Lifeline Support**

- TracFone: 2005
- Virgin Mobile: 2009
- i-wireless: 2010



Forbearance

■ Three-Prong Statutory Test

The Commission must determine the following before granting a petition for forbearance:

- Enforcement of the requirement for which forbearance is sought is not necessary to ensure that the charges, practices, classifications, or regulations associated with the carrier are just and reasonable and are not unjustly or unreasonably discriminatory
- Enforcement of the requirement is not necessary for the protection of consumers
- Forbearance from applying the requirement is consistent with the public interest



Forbearance

■ Forbearance Conditions Imposed

- Provide Lifeline customers with 911 and E911 access regardless of activation status and availability of prepaid minutes
- Provide Lifeline customers with E911-compliant handsets and replace, at no charge, non-compliant handsets
- Comply with first two conditions as of date first provide Lifeline service
- Obtain a certification from each PSAP where the carrier provides service confirming that the carrier provides 911 and E911 access or, in the alternative, self-certify under certain conditions



Forbearance

■ **Forbearance Conditions Imposed** (continued)

- Require each customer to self-certify at time of service activation and annually thereafter that s/he is head of household and receives Lifeline-supported service only from that carrier
- Establish safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address
- Deal directly with the customer to certify and verify the customer's eligibility
- Submit to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement all of the conditions



Forbearance

■ Low-Income Forbearance Facts

- Forbearance has been granted only for the limited purpose of qualifying for **Lifeline** support
- Of the three grants, only i-wireless sought forbearance to qualify for both **Lifeline** and **Link Up** support
- The Commission denied i-wireless's request to qualify for Link Up support, finding that the company did not meet the three-prong forbearance test with regard to Link Up



Forbearance

- **Pending Forbearance Petitions (for the limited purpose of qualifying to receive Lifeline support)**
 - Head Start Telecom
 - Consumer Cellular, LLC
 - Midwestern Telecommunications, Inc. **
 - Line Up, LLC
 - Conexions, LLC
 - PlatinumTel Communications LLC
 - NTCH, Inc.

**** also seeking to qualify for Link Up support**