

**STATE OF INDIANA**  
**BEFORE THE INDIANA UTILITY REGULATORY COMMISSION**

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**IN THE MATTER OF**

**PETITION OF SAGE TELECOM  
COMMUNICATIONS, LLC TO EXPAND ITS  
ELIGIBLE TELECOMMUNICATIONS  
CARRIER DESIGNATED SERVICE AREA**

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) **CAUSE NO. 41052 ETC 82**  
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**FILED**  
October 30, 2020  
**INDIANA UTILITY  
REGULATORY COMMISSION**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**Sarah E. Freeman, Commissioner**

**Lora L. Manion, Administrative Law Judge**

On June 11, 2020, Sage Telecom Communications, LLC d/b/a TruConnect (“Petitioner” or “TruConnect”) filed its Petition to Expand Its Eligible Telecommunications Carrier (“ETC”) Designated Service Area (“Expansion Petition”) with the Indiana Utility Regulatory Commission (“Commission” or “IURC”). In its Expansion Petition, TruConnect sought, pursuant to Section 214(e)(2) of the Federal Communications Act of 1934, as amended (“Act”), to expand its ETC designated service area to provide wireless services supported by the Federal Universal Service Fund’s (“USF”) Lifeline program throughout additional areas in Indiana.

On August 7, 2020, Petitioner pre-filed its direct testimony of Nathan Johnson. On August 20, 2020, the Office of the Utility Consumer Counselor (“OUCC”) filed Notice of Intent Not to File Testimony. On September 11, 2020, the Presiding Officers requested that Petitioner respond to a set of information requests. On September 16, 2020, Petitioner filed its responses to the information requests and a motion for confidential treatment, followed by the underlying confidential carrier agreement “Plintron Telscape Agreement” (Exhibit 4-C) on September 21, 2020 and a Notice of Filing of Exchange List on September 22, 2020.

On September 24, 2020, pursuant to notice duly published according to law, an evidentiary hearing was convened at 9:30 a.m. at the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing handled virtually on Webex, counsel for Petitioner and the OUCC appeared virtually and participated. No members of the general public were present or sought to testify. The testimony and exhibits of TruConnect were admitted into evidence without objection. The OUCC did not offer any testimony or other evidence into the record. The Presiding Officers asked Petitioner’s counsel a brief series of questions to introduce the exhibits in the record.

The Commission, having examined all of the evidence of record and all applicable law, now finds as follows:

**1. Notice and Jurisdiction.** Proper, legal, and timely notice of the hearing in this cause was given and published by the Commission as provided for by law. The proofs of publication of the notice of the hearing have been incorporated into the record of this proceeding. Pursuant to the Act, 47 U.S.C. § 151 *et seq.*, and applicable Federal Communications Commission (“FCC”) Rules, 47 C.F.R. §§ 54.201 and 54.203, the Commission is authorized to designate ETCs, thereby enabling those so designated to apply for federal universal service support under Section 254 of the Act and in accordance with the Commission’s Orders in Cause Nos. 40785, 41052, and 42067. The Commission also has jurisdiction pursuant to Indiana Code § 8-1-2.6-13(d)(5)(B). The Commission therefore has jurisdiction over Petitioner and the subject matter of this Cause.

**2. Petitioner’s Characteristics.** TruConnect is a Texas Limited Liability Company, with its principal office located at 1149 S. Hill Street, Suite 400, Los Angeles, California 90015. Sage Telecom Communications, LLC is a subsidiary of TSC Acquisition Corporation (“TSC”) and was formerly known as Sage Telecom, Inc. before a corporate restructuring in 2012. TSC also owns TruConnect Communications, Inc., formerly Telscape Communications, Inc., and the owners of TSC separately own TruConnect Mobile, LLC, which sells mobile hotspot devices and low-cost monthly data plans, as well as Wefi, LLC, a mobile data analytics company that develops data intelligence products and services for wireless carriers, cable operators, content providers, and application developers. Sage Telecom, Inc. received a Certificate of Territorial Authority (“CTA”) to provide switched and special access local exchange telecommunications services including caller ID in the Commission’s March 13, 2002 Order in Cause No. 42155. On September 20, 2012, the Commission acknowledged Sage Telecom Inc. as a commercial mobile radio service provider (“CMRS”) pursuant to Notice of Change No. CSP 1208-6. Subsequently, on April 18, 2013, the Commission acknowledged the transfer of Sage Telecom Inc.’s CTA to TruConnect pursuant to Notice of Change CSP 1303-2. On August 20, 2018, the Commission acknowledged the addition of Petitioner’s d/b/a TruConnect pursuant to Notice of Change CSP 1806-8. Petitioner has been authorized by the Indiana Secretary of State to conduct business in Indiana. Petitioner is also a common carrier as defined by 47 C.F.R. § 20.9 and a telecommunications carrier as defined by 47 U.S.C. § 153. The Commission designated TruConnect as an ETC by Order issued February 11, 2015 in Cause No. 41052 ETC 73 (the “ETC Designation Order”).

**3. Requirements for ETC Designation.** The Commission’s November 5, 1997 Order in Cause No. 40785 (“40785 Order”) adopted the FCC’s original eligibility requirements for designation of ETCs within the State of Indiana, which required each Indiana ETC receiving federal universal service support to offer the universal services set out in 47 C.F.R. § 54.101(a). The FCC modified the list of supported services that must be offered by ETC designees in the *USF/ICC Transformation Order*<sup>1</sup> and *Lifeline Reform Order*,<sup>2</sup> which is discussed in more detail below, and further modified the supported services in the *Lifeline Modernization Order*.<sup>3</sup> In

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<sup>1</sup> *Connect America Fund*, FCC 11-161 (rel. Nov. 18, 2011) (“*USF/ICC Transformation Order*”).

<sup>2</sup> *Lifeline and Link Up Reform and Modernization*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline Reform Order*”).

<sup>3</sup> *Lifeline and Link Up Reform and Modernization*, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (“*Lifeline Modernization Order*”).

addition to offering the delineated universal services, to be eligible for designation as an ETC, applicants are required by 47 C.F.R. § 54.405 to offer qualifying low-income customers Lifeline programs. The Expansion Petition seeks only a limited designation and is presented for the limited purpose of participating in the USF's Lifeline program as a wireless carrier. If the Expansion Petition is approved, 47 C.F.R. § 54.201(d)(2) will require Petitioner as an ETC receiving federal universal support for Lifeline to publicize the availability and cost of the supported services and the Lifeline programs using media of general distribution throughout the service areas for which the designation is requested. Pursuant to the 40785 Order, carriers seeking ETC designation in Indiana are also required to file proposed tariffs and boundary maps depicting the area(s) for which ETC designation is sought.

On March 17, 2005, the FCC released ETC eligibility guidelines mandating that future ETC designations would require a public interest analysis for applicants regardless of whether the proposed designation area is served by a rural or non-rural carrier.<sup>4</sup> The Commission adopted the FCC's new eligibility guidelines by its June 8, 2005 Order in Cause No. 41052 ETC 47. On November 10, 2010, the Commission issued the first "Lifeline only" ETC designation to Virgin Mobile in Cause No. 41052 ETC 55 ("Virgin Mobile ETC Order"). Subsequently, it granted Lifeline only designations to TracFone Wireless, Inc. in Cause No. 41052 ETC 54; i-wireless, LLC in Cause No. 41052 ETC 56; TerraCom, Inc. in Cause No. 41052 ETC 60; Telrite Corporation in Cause No. 41052 ETC 58; T-Mobile Central LLC and Powertel/Memphis, Inc. in Cause No. 41052 ETC 61; Budget Prepay, Inc. d/b/a Budget Mobile in Cause No. 41052 ETC 63; Nexus Communications, Inc. in Cause No. 41052 ETC 59; Q LINK WIRELESS LLC in Cause No. 41052 ETC 69; and Sage Telecom Communications, LLC in Cause No. 41052 ETC 73. In each of these Orders, it imposed certain requirements and reporting obligations as a condition of the ETC designation.

Through the *USF/ICC Transformation Order* and the *USF/ICC Clarification Order*,<sup>5</sup> the FCC revised the ETC designation eligibility requirements by: (1) defining "Voice telephony services" and eliminating the requirement to offer dual tone multi-frequency signaling, single party service, access to operator service, access to interexchange service, and directory assistance from the supported services found in 47 C.F.R. § 54.101(a) to be included in universal service offerings, and the *Lifeline Modernization Order* added broadband Internet access service ("BIAS") as a supported service effective December 2, 2016; (2) requiring carriers to certify compliance with the service requirements applicable to the support received, consistent with 47 C.F.R. § 54.202(a)(1)(i); (3) eliminating the additional requirement of offering local usage and providing equal access previously found in 47 C.F.R. § 54.202; and (4) eliminating the requirement that Lifeline only applicants submit a 5-year service improvement plan pursuant to 47 C.F.R. § 54.202.

The FCC's *Lifeline Reform Order*<sup>6</sup> is designed to:

...substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the

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<sup>4</sup> *Federal-State Joint Board on Universal Service*, 20 FCC Rcd 6371, 6389-6390 (2005) ("2005 FCC ETC Order").

<sup>5</sup> *Connect America Fund*, 27 FCC Rcd 605 (2012) ("USF/ICC Clarification Order").

<sup>6</sup> *Lifeline Reform Order* at 6659.

growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund.

The *Lifeline Reform Order* changed the requirements pertaining to state ETC designations found in 47 C.F.R. § 54.201(h). In the Order, the FCC concluded that “in order to ensure Lifeline-only ETCs, whether designated by the [FCC] or the states, are financially and technically capable of providing Lifeline services, we now include an explicit requirement in section 54.202 that a common carrier seeking to be designated as a Lifeline-only ETC demonstrate its technical and financial capacity to provide the supported service.”<sup>7</sup> Relevant considerations for such a showing include whether the applicant previously offered services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement action of ETC revocation proceedings in any state.<sup>8</sup>

The *Lifeline Reform Order* modified and added new requirements for ETC designation that apply to ETC applications filed with state commissions that specifically adopt the additional requirements. The requirement to demonstrate financial and technical capability was added in 47 C.F.R. § 54.202(a)(4). The requirement to offer a Lifeline plan comparable to the incumbent local exchange carrier (“ILEC”) in the service areas for which it seeks designation was replaced with 47 C.F.R. § 54.202(a)(5), which requires ETC applicants to explain the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan (by the *Lifeline Modernization Order*, the FCC added 47 C.F.R. § 54.202(a)(6), which requires ETC applicants to explain the terms and conditions of any BIAS plans offered to Lifeline subscribers). Additionally, once designated by this Commission as a Lifeline ETC offering BIAS that meets the minimum service requirements in 47 CFR 54.408, the designee’s Lifeline offerings must reflect a uniform \$9.25 per month federal reimbursement of the Lifeline discount; include specific disclosures in advertising and outreach; include required processes for determining initial and ongoing eligibility; and comply with the reporting and compliance obligations set forth herein. In keeping with the Commission’s past practice of adopting the FCC’s ETC guidelines, we adopt the guidelines and requirements set forth in the *Lifeline Reform Order*, as well as the requirements of the *USF/ICC Transformation Order*, *USF/ICC Clarification Order* and the *Lifeline Modernization Order* (together, *FCC Lifeline Orders*), in addressing the Petitioner’s requested relief.

**4. Petitioner’s Evidence.** Petitioner offered direct pre-filed testimony of Nathan Johnson, Co-Chief Executive Officer at TruConnect. Mr. Johnson’s testimony stated that TruConnect provides prepaid wireless telecommunications services to consumers by using the wireless networks of underlying facilities-based providers, primarily T Mobile USA, Inc. (“T-Mobile”). Mr. Johnson explained that the ETC designation Order designated TruConnect as an ETC for services areas within Verizon Wireless’ coverage, and that TruConnect filed the Expansion Petition for the purpose of expanding the Company’s designated ETC service area to include all areas covered by T-Mobile. He noted that Sage d/b/a TruConnect is designated and operating as a wireless ETC in Arizona, Arkansas, Colorado, Georgia, Idaho, Illinois, Indiana,

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<sup>7</sup> *Id.* at 6819.

<sup>8</sup> *Id.*

Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New York, Ohio, Oklahoma, Pennsylvania, Puerto Rico, South Carolina, Texas, Utah, Washington, West Virginia, and Wisconsin; and its affiliate TruConnect, Inc. is currently designated and operating as a wireless ETC in California, Rhode Island, and the U.S. Virgin Islands. Mr. Johnson noted that TruConnect currently provides Lifeline service to more than 5,500 Indiana customers.

Mr. Johnson's testimony addressed TruConnect's compliance with changes in FCC requirements, including the *Lifeline Modernization Order*, since issuance of the ETC Designation Order. Mr. Johnson explained that the FCC's *Lifeline Modernization Order* introduced broadband Internet access service ("BIAS") as a supported service; established minimum service standards for voice service, broadband service, and equipment requirements, with a mechanism for updating those standards over time; confirmed permanent support levels of \$9.25 per month per Lifeline subscriber (with an additional \$25 for Tribal subscribers), and set forth a schedule for reducing support for standalone voice service; revised the list of programs through which consumers can demonstrate eligibility to receive Lifeline-supported service; set forth directives to initiate the launch of a National Lifeline Eligibility Verifier ("National Verifier"); and updated the list of what actions constitute "usage" of the supported services and reduced the period of time during which consumers must demonstrate usage.

Mr. Johnson noted that TruConnect's initial ETC petition filed in Cause No. 41052 ETC 73 ("ETC Petition"), which was incorporated by reference in the Expansion Petition, provided all of the information required by FCC rules in effect at the time (i.e., 47 C.F.R. §§ 54.201-54.202, the "FCC ETC Rules"), including those set forth in the FCC's *Lifeline Reform Order*. Mr. Johnson testified that TruConnect continues to meet all the statutory and regulatory requirements for designation as an ETC in the State of Indiana and provides service that is consistent with the FCC's updated requirements for Lifeline service, as follows: TruConnect offers all Lifeline-supported services required by the FCC's rules, namely eligible voice telephony service and BIAS; TruConnect commits that its Lifeline-supported services will meet or exceed the minimum service standards set forth in 47 C.F.R. § 54.408, including as they change going forward; TruConnect determines eligibility of Lifeline subscribers in accordance with 47 C.F.R. § 54.410 and relies upon the National Lifeline Eligibility Verifier ("National Verifier") to determine initial and ongoing eligibility of Indiana Lifeline subscribers; through use of the National Verifier, TruConnect complies with the requirements of the National Lifeline Accountability Database ("NLAD") as set forth in section 54.404 of the FCC's rules; TruConnect will further comply with the FCC's *Fifth Report and Order*,<sup>9</sup> which set forth reforms to strengthen the Lifeline program's enrollment, recertification, and reimbursement processes. Mr. Johnson further described TruConnect's updated non-usage policy in compliance with updated FCC rules set forth in 47 C.F.R. § 54.405(e)(3) and § 54.407(c)(2).

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<sup>9</sup> *In the Matter of Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 17-287, WC Docket No. 11-42, WC Docket No. 09-197, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 19-111 (rel. Nov. 14, 2019) ("*Fifth Report and Order*")



Mr. Johnson explained the public interest benefits of expanding TruConnect's ETC service area. TruConnect's prepaid Lifeline rate plans are highly competitive with other Lifeline rate plans on the market. TruConnect's Lifeline program provides low-income Indiana residents with the convenience and security offered by wireless services, even if their financial position deteriorates. Expansion of TruConnect's ETC service area will increase the number of low-income individuals that can benefit from the advantages offered by the Company's Lifeline service, ensuring they have access to wholly supported or discounted wireless voice and broadband service.

**5. Information Request Responses.** On September 11, 2020, the Presiding Officers requested that Petitioner (1) verify with specificity that the Expansion Petition followed the updated ETC filing guidelines in General Administrative Order ("GAO") 2019-5; and (2) demonstrate that Petitioner has an agreement with the carrier(s) in Indiana that will cover the proposed designated service area. On September 16, 2020, Petitioner submitted its responses to the information requests above into evidence as Exhibit 3 "Response to Request for Additional Information".

Petitioner's Information Responses explained that TruConnect's Expansion Petition addressed primarily the information required by General Administrative Order 2019-5, Appendix A Item 6, with incorporation by reference of information from TruConnect's original ETC Petition. In its ETC Petition, TruConnect provided all of the information required by the GAO in effect at the time, GAO 2013-2, which differs only slightly in content from GAO 2019-5. TruConnect Information Responses provided supplemental information to demonstrate compliance with GAO 2019-5.

The supplemental response "Response to Request for Additional Information" on September 16, 2020 addressed: (i) the purpose of the petition; (ii) the partners of affiliates; (iii) the required certifications; (iv) the ability of the petitioner to serve the designated service area; (v) the supported services; (vi) the proposed designated service area; (vii) disclosure of charges; (viii) facilities; (ix) financial and technical capabilities; (x) the five (5) year plan; (xi) functionality in emergencies; (xii) consumer protection and service quality; (xiii) description of lifeline plan; (xiv) public interest; (xv) notification requirements; and (xvi) payment of applicable public interest fees.

**6. Commission Discussion and Findings.** Universal service funds are provided in four areas: (1) funds to support service to high cost areas; (2) provision of discounted telecommunications and internet access to eligible schools and libraries (also known as the "E-Rate" program); (3) funds to assist low-income customers by provision of a monthly discount on telecommunications costs; and (4) provision of discounted service to rural health care providers. *Comprehensive Review of Universal Service Fund Management, Administration and Oversight*, 22 FCC Rcd 16372, 16374 (2007).

Petitioner seeks expansion of its ETC service area for the limited purpose of offering wireless Lifeline service to additional low-income customers in Indiana. Petitioner's petition does not implicate the other three Universal Service Fund programs. Based on the evidence in the record and the discussion below, we find TruConnect meets the eligibility criteria for ETC designation as contained in Section 214(e)(1) of the Act and related FCC Rules for the limited

purpose of offering Lifeline service in Indiana, and satisfies the public interest analysis the Commission is required to perform under the *2005 FCC ETC Order*.

Any Commission decision, ruling, or order must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission must determine whether the evidence in this Cause sufficiently supports designating TruConnect as an ETC in additional service areas as reasonable, just, and consistent with the purpose of Indiana Code § 8-1-2, and that designation serves the public interest.

**A. Common Carrier Status.** The first requirement for ETC designation is status as a common carrier under federal law. A common carrier is generally defined by 47 U.S.C. § 153(11) as any person engaged as a common carrier on a for-hire basis in interstate telecommunications utilizing either wire or radio technology (except for radio broadcasters). As a provider of wireless telecommunications services, we find that TruConnect is a “common carrier” for purposes of obtaining ETC designation under 47 U.S.C. § 214(e)(1).

**B. Services Required to Be Offered by an ETC.** The evidence confirms that TruConnect provides all of the services required of an ETC in the *Lifeline Reform Order* and *Lifeline Modernization Order*, pursuant to 47 C.F.R. § 54.101(a) as follows:

*Broadband Internet access service*, which must provide “the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service.” Mr. Johnson noted that TruConnect provides BIAS via resale of its underlying carrier(s) wireless services, and the rates proposed by TruConnect each contain a broadband component. We find that TruConnect meets this requirement.

*Voice Telephony Service*, which consists of:

i. *Voice-grade access to the public switched telephone network.* The FCC has concluded that voice grade service means the ability to make and receive phone calls within a specified bandwidth and frequency range. 47 U.S.C. § 54.101(a). We find that TruConnect meets this requirement.

ii. *Minutes of use for local service.* ETCs must provide minutes of use for local service at no additional charge to end users. As the record demonstrates, TruConnect will offer users the ability to send and receive phone calls wherever the company offers service. Lifeline customers will have a choice of Lifeline plans that include a set amount of minutes which may be used for local and/or nationwide domestic long distance phone calls. Based on the evidence, we find that TruConnect’s offerings satisfy this requirement.

iii. *Access to emergency services.* The ability to reach a public emergency service provider by dialing 911 is a required service in any universal service offering. As demonstrated in the ETC Petition, TruConnect complies with the FCC’s regulations governing the deployment and availability of E911 compatible handsets and its underlying carriers route

emergency calls from TruConnect's customers in the same manner as their own customers. Based on the foregoing, we find that TruConnect satisfies this requirement.

iv. *Toll limitation for qualifying low-income consumers.* Toll limitation allows customers to either block the completion of outgoing long-distance calls or specify a certain amount of toll usage to prevent them from incurring significant long-distance charges and risking disconnection. In the *Lifeline Reform Order*, the FCC stated that toll limitation would no longer be deemed a supported service.<sup>10</sup> "ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls."<sup>11</sup> TruConnect's offerings inherently allow Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid, or pay-as-you-go, basis. Moreover, TruConnect's service is not offered on a distance-sensitive basis and local and domestic long-distance minutes are treated the same. Accordingly, we find that TruConnect satisfies this requirement.

**C. Lifeline Service Offering Requirements.** 47 C.F.R. § 54.202(a) requires common carriers seeking designation as an ETC to submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan, as well as the terms and conditions of any BIAS plans offered to Lifeline subscribers, including details on the speeds offered, data usage allotments, additional charges for particular uses, if any, and rates for each such plan. Mr. Johnson provided evidence that TruConnect offers eligible customers 1,000 voice minutes, unlimited text messages and 3 gigabytes (GB) of data per month. Lifeline customers will have the ability to purchase additional airtime as needed. The record also reflects the Company's commitment that TruConnect's Lifeline-supported services will meet or exceed the minimum service standards set forth in 47 C.F.R. § 54.408, including as such standards are updated going forward. Thus, the evidence shows that TruConnect satisfies the Lifeline service offering requirements in 47 C.F.R. § 54.202(a).

**D. Functionality in Emergency Situations.** FCC Rule 47 C.F.R. § 54.202(a)(2) requires an ETC to provide a "[d]emonstration of the carrier's ability to remain functional in emergency situations." TruConnect has certified that it has the ability to remain functional in emergency situations through the capabilities of its underlying wireless providers' networks, which includes access to a reasonable amount of back-up power, rerouting of traffic around damaged facilities, and the capability to manage traffic spikes resulting from emergency situations. Based on the foregoing, we find that TruConnect meets the requirement to remain functional in emergency situations.

**E. Consumer Protection and Service Quality.** FCC Rule 47 C.F.R. § 54.202(a)(3) requires an ETC to "[d]emonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's ["CTIA"] Consumer Code for Wireless Service will satisfy this requirement." TruConnect has certified that it will comply with the CTIA Consumer Code for Wireless Service, and thus meets this requirement.

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<sup>10</sup> See *Lifeline Reform Order* at ¶ 367.

<sup>11</sup> See *Lifeline Reform Order* at ¶ 49.



**F. Financial and Technical Capability.** FCC Rule 47 C.F.R. § 54.202(a)(4) requires an ETC to “[d]emonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E,” and 47 C.F.R. 54.201(h) further states that a “state commission shall not designate a common carrier as an [ETC] for purposes of receiving support only under subpart E [Lifeline] 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.” The FCC provided that relevant considerations for such a showing include whether the applicant previously offered services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state.<sup>12</sup>

In its ETC Designation Order, this Commission found TruConnect to be financially and technically capable of providing Lifeline service. TruConnect has been providing Lifeline service in Indiana and is now providing Lifeline service in more than thirty (30) jurisdictions. Based on the evidence in the record, the Commission is satisfied that TruConnect possesses the financial and technical ability to provide Lifeline services.

**G. Advertising Requirements.** TruConnect’s ETC Petition demonstrated that it will advertise the availability of the supported services, and the corresponding rates and charges, in a manner designed to inform the general public within the designated service area. TruConnect has reaffirmed its commitment to advertise the availability and rates for the supported services using media of general distribution as required by 47 C.F.R. § 54.201(d)(2). We therefore find that the evidence in the record indicates that TruConnect will comply with all applicable advertising requirements.

**H. Petitioner’s Designated ETC Service Area.** The FCC’s rules define “service area” as a “geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms.” 47 C.F.R. § 54.207(a). The Commission’s GAO 2019-5, Appendix A, Section 6 requires petitioners to specify the designated service area for which ETC designation is sought by providing appropriate maps in a shapefile or geodatabase format and a list of ILEC exchanges, indicating if the exchange is served in entirety or partially. TruConnect submitted with the Expansion Petition a geospatial map indicating the wireless coverage area of T-Mobile, and subsequently provided a list of corresponding ILEC exchanges on 9/22/20 “Notice of Filing of Exchange List”. TruConnect is authorized to provide telecommunications service throughout the State of Indiana within the network coverage area of its underlying wireless providers. Based on the foregoing, we approve TruConnect’s proposed service area for Lifeline ETC purposes. TruConnect shall also file under this Cause within 30 days of this final order a [detailed service area] map in [shapefile or geodatabase] format to indicate Petitioner’s proposed ETC service area; or (2) if Petitioner is unable to provide the map in [shapefile or geodatabase] format, Petitioner shall file under this Cause within 30 days of the final Order, a request for waiver and an explanation of why Petitioner cannot provide such map.

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<sup>12</sup> *Lifeline Reform Order* at 6819.

Petitioner's request for waiver shall be subject to the grant or denial of the Presiding Officers in this Cause.

**I. Facilities-Ownership.** TruConnect is not a facilities-based CMRS provider but will be reselling the services of underlying facilities-based wireless carriers. Federal rules prohibit pure resellers from being designated as ETCs; however, the FCC has granted wireless resellers who seek ETC designation for the limited purpose of providing Lifeline services forbearance from the facilities requirement of 47 U.S.C. § 214(e)(1)(A) if the reseller files a compliance plan that is approved by the FCC and complies with certain 911 requirements. *See Lifeline Reform Order*, at 6813-6814. TruConnect's ETC Petition shows that TruConnect received FCC approval of its Compliance Plan on December 26, 2012. Based on the foregoing, we find that it is unnecessary to require facilities ownership.

In addition, the Commission's General Administrative Order in 2019-5, in Appendix A, Section 8b requires wireless resellers seeking ETC designation to provide the name of the facilities-based wireless carrier(s) whose services they are reselling. Since wireless resellers do not have their own facilities enabling them to provide supported services, they are required to demonstrate they have an agreement with a carrier or carriers in Indiana that will cover the proposed designated service area. TruConnect demonstrated it has an agreement in place to provide supported services in T-Mobile's network coverage area. TruConnect may, therefore, provide supported services in T-Mobile's network coverage area.

**J. Public Interest Consideration.** As noted above and in accordance with 47 C.F.R. § 54.202(b), the designation of TruConnect as an ETC requires a public interest analysis. In the absence of statutory strictures for evaluating the public interest, the FCC has recommended that ETC designations be analyzed "in a manner that is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; ensuring the availability of quality telecommunication services at just, reasonable, and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas."<sup>13</sup>

i. *Use of Lifeline Funding.* The record indicates that TruConnect will use funds from the federal Lifeline program to provide supported services to Lifeline customers. TruConnect has met its burden of proof for the Lifeline program. We find that TruConnect's plans are consistent with current FCC regulations on the use of such funds.

ii. *Impact on Federal Universal Service Fund.* We have previously recognized that the FCC has undertaken various steps to address the growth in high-cost universal support disbursements. *Perry-Spencer Communications, Inc.*, Cause No. 41052-ETC-53, 2008 Ind. PUC LEXIS 510, at \*33 (IURC July 24, 2008). Notably, however, TruConnect is not seeking access to funding from the federal USF to provide service to high-cost areas. Lifeline support is provided on a customer-specific basis, and only after a carrier has acquired and begun to serve an eligible customer does the carrier receive Lifeline support for that customer. By tying support to actual service of a customer, the Lifeline program ensures that universal service fund support only funds the carrier that serves the customer. However, we also recognize that costs for the low-income

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<sup>13</sup> 2005 FCC ETC Order, 20 FCC Red at 6389-6390.

portion of the universal service fund are increasing. While it is in the public interest that Lifeline eligible customers get connected to affordable telecommunications service, preventing misuse of the Lifeline program is necessary to control unproductive growth of the fund and increased USF surcharges for all Indiana telecommunications customers. Provided the requirements of TruConnect's ETC Designation Order are satisfied, along with other conditions and safeguards promulgated in FCC rules to deter waste, fraud, and abuse, we find that expanding TruConnect's Lifeline-only designation to additional service areas should not have an excessive impact on the universal service fund.

iii. *Consumer Protection.* The FCC found that an ETC applicant must make a specific commitment to objective measures to protect customers. *See 2005 FCC ETC Order.* The evidence reflects TruConnect's commitment to abide by the CTIA Consumer Code of Conduct and applicable consumer protection requirements.

iv. *Creamskimming.* The FCC identified creamskimming as an appropriate factor to consider in "areas where an ETC applicant seeks designation below the study area level of a rural company." *See 47 C.F.R. § 54.202(c).* That type of analysis is unnecessary in this case since TruConnect seeks ETC designation solely for Lifeline support. *See FCC Order 05-46, ¶ 52.*

v. *Increased Consumer Choice.* Currently in Indiana all ILECs are required to provide the Lifeline discount to eligible customers in all areas where the ILEC remains certified as an ETC. In light of Indiana's current and historically low Lifeline take rate and fairly recent ETC relinquishments by AT&T and several previous non-ILEC competitive Indiana ETCs, we agree that TruConnect's offering brings increased competitive choice to the Lifeline eligible customers in additional areas of Indiana and that this offering may reach a particular segment of Lifeline eligible customers that have not yet been reached. Based on the record, we find that expansion of TruConnect's ETC service area will increase the level of customer choice and may promote competition by expanding the availability of wireless services and/or BIAS to additional qualifying Indiana customers, possibly leading to lower prices.

vi. *Affordable Rates.* We must also consider whether designation as an ETC will "ensur[e] the availability of quality telecommunications services at just, reasonable, and affordable rates[.]" *2005 FCC ETC Order* at 6388. TruConnect's current Lifeline service offering proposes to give eligible customers 1,000 voice minutes, unlimited text messages, and 3 gigabytes (GB) of data per month. Lifeline customers will have the ability to purchase additional airtime as needed. Further, the benefits of TruConnect's Lifeline plans will increase when necessary to comply with the FCC's minimum service standards. The OUCC did not dispute the affordability of TruConnect's rates. Accordingly, we find that expansion of TruConnect's ETC service area would serve the public interest by providing additional competition in its expanded ETC service area.

vii. *Advantages and Disadvantages of the Offering.* The record reflects that TruConnect's Lifeline service offering will expand available, accessible service options for additional Lifeline-eligible Indiana households. Accordingly, we find that TruConnect has satisfied this criterion of our public interest inquiry.

viii. *Additional Public Interest Analysis.* ETC designation confers both benefits and burdens upon the petitioning telecommunications service provider. Because the designation gives the provider the right to apply for federal universal service funds, it is essential that the provider comply with its obligations to contribute to public interest funds and not have a competitive advantage over other Indiana telecommunications carriers by avoiding such obligations. We find that it would not be competitively neutral to designate an ETC permitting it to collect public funds, yet not contribute its fair share to public interest funds from which its network and its customers benefit. TruConnect's ETC Designation Order is conditioned upon TruConnect's compliance with Indiana laws and policies regarding the public interest funds for which the Commission has administrative oversight, including the public utility fee pursuant to Indiana Code ch. 8-1-6, the InTRAC fee pursuant to Indiana Code ch. 8-1-2.8, and the Indiana Universal Service Fund pursuant to the Commission's Order in *Commission Investigation of Universal Service Reform*, Cause No. 42144, 2004 Ind. PUC LEXIS 61 (IURC March 17, 2004). Based on the foregoing public interest analysis, we conclude that expansion of TruConnect's ETC service area will promote the public interest and further the goals of the Act.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. TruConnect's petition to expand its Eligible Telecommunications Carrier designated service area for the purpose of offering Lifeline service to additional qualified households, for the service area identified in TruConnect's evidence, shall be and hereby is granted, subject to TruConnect's compliance with the conditions of this Order and other applicable laws.

2. This Order shall be effective on and after the date of its approval.

**HUSTON, FREEMAN, KREVDA, OBER AND ZIEGNER CONCUR:**

**APPROVED:**

**I hereby certify that the above is a true  
and correct copy of the Order as approved.**

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**Mary M. Schneider**  
**Secretary of the Commission**