

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Denali Spectrum Operations, LLC)
d/b/a Cricket)
Application for Designation as an Eligible) Docket No. 10-_____
Telecommunications Carrier)

**APPLICATION OF DENALI SPECTRUM OPERATIONS, LLC d/b/a CRICKET
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

Denali Spectrum Operations, LLC (“Denali”) respectfully submits to the Illinois Commerce Commission (the “Commission”) this Application for Designation as an Eligible Telecommunications Carrier (“ETC”) for purposes of receiving Universal Services Support pursuant to Section 214(e)(2) of the Telecommunications Act of 1996 (“1996 Act”), 47 U.S.C. § 214(e)(2), and Section 54.201 of the Rules of the Federal Communications Commission (“FCC”), 47 C.F.R. § 54.201. Denali seeks ETC designation (1) to receive support from the federal Universal Service Fund (“FUSF”) and to offer “Lifeline” and “Link-Up” support only to its qualifying customers; and (2) for waiver of certain provisions of Part 736.110 of the Commission’s rules. 83 Ill. Adm. Code § 736.110. Additionally, Denali respectfully requests that the Commission grant this Application expeditiously, so that low-income customers in Illinois can benefit from the variety of high-quality calling plans provided by Denali without any unnecessary delay.

I. BACKGROUND

Denali offers service in Northern Illinois.¹ Denali provides digital wireless services on a common carrier basis, offering customers unlimited calling at flat rates without requiring a fixed-

¹ As documented in numerous filings with the Federal Communications Commission, Denali provides service under the Cricket brand name pursuant to a Trademark License Agreement with Cricket Communications, Inc.

term contract or a credit check. Denali serves over 325,000 customers. Denali is a Delaware limited liability company authorized to do business in Illinois, and throughout the requested ETC area, pursuant to a Commercial Mobile Radio Service (“CMRS”) license granted by the Federal Communications Commission (“FCC”). On February 27, 2008, the Commission granted Denali the certification required to provide commercial mobile radio service throughout the State of Illinois. *See* Order, Docket No. 07-0625 (Feb. 27, 2008).

Designation of Eligible Telecommunications Carriers. Sections 214(e) and 254 of the 1996 Act expressly authorize the Commission to designate Denali as an ETC. 47 U.S.C. §§ 214(e), 254. More specifically, Section 214(e)(2) of the 1996 Act provides that, upon request and consistent with the public interest, convenience, and necessity, the 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 ETC, provided the requesting carrier: (i) offers services that are supported by federal universal service support mechanisms; and (ii) advertises the availability of such services. 47 U.S.C. § 214(e)(1). In its *First Report and Order* implementing Sections 214(e) and 254, the FCC set forth the services a carrier must provide in order to be designated as an ETC and, thus, receive FUSF. *Federal State Joint Bd. on Universal Srv., Report and Order*, 12 FCC Rcd 8776, 8809-25 (1997). The FCC’s rules, as well as Part 757 of the Commission’s rules, impose additional requirements on a common carrier seeking designation as an ETC. 83 Ill. Adm. Code Part 757. As demonstrated below, Denali satisfies each of these requirements.

Scope of Denali Designation Request. Section 214(e)(2) of the 1996 Act provides that ETC designations shall be made for a “service area” designated by the state commission. Denali seeks ETC designation for the purpose of receiving available low-income support from the FUSF

in exchanges consisting of the non-rural wire centers of AT&T Illinois (“AT&T”). Exhibit A contains maps showing Denali’s current coverage area in Illinois, and Exhibit B contains lists of the wire centers within those coverage areas. In areas served by a non-rural company, such as AT&T, the state commission may establish an ETC service area for a competitor without federal concurrence. 47 U.S.C. § 214(e)(5). Section 54.207 of the FCC’s rules define a “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). For service areas served by non-rural ILECs, there are no restrictions on how a commission defines the “service area” for purposes of designating a competitive ETC. Because Denali seeks to provide service in only non-rural service areas and because Denali seeks ETC designation solely to enable it to provide low-cost support, Denali seeks this limited ETC designation for the service area previously defined. For the reasons set forth below, designating Denali as an ETC throughout the requested service areas would serve the public interest, convenience and necessity.

II. DENALI SATISFIES THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC IN ILLINOIS

Denali satisfies each of the statutory and regulatory prerequisites set forth in the Act, the FCC’s rules. Because Denali is not seeking high-cost support and because it seeks ETC designation solely for purposes of reimbursement for provision of subsidized Lifeline and Link-Up services to eligible customers, submission of a Five-Year Network Improvement is not required.

A. Denali Offers the Services and Functionalities Supported by the Federal Low-Income Universal Service Program [47 C.F.R. § 54.201(d)]

Denali provides each of the services supported by FUSF mechanisms, as set forth in 47 C.F.R. § 54.101, and will offer these supported services throughout the area in which it is designated as an ETC. Denali will provide these supported services using its own facilities or a

combination of its own facilities and the resale of another carrier's service. Denali primarily will use its own network infrastructure, which includes the same antennae, cell-sites, towers, trunking, mobile switching and interconnection facilities used to serve its existing customers.

These supported services include:

Voice Grade Access [47 C.F.R. § 54.101(a)(1)]. "Voice grade access" permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal that there is an incoming call. Through its interconnection agreements with local exchange carriers ("LECs") in Illinois, Denali's customers will be able to make and receive calls on the public switched telephone network with a minimum bandwidth of 300 to 3000 Hertz.

Denali commits to responding to reasonable requests for service by providing service to a customer who has a billing address in the service area at the customer's billing address or at a different address specified by the customer that represents the customer's home or work location.

Local Usage [47 C.F.R. § 54.101(a)(2)]. "Local usage" is an amount of minutes of use of exchange service provided without an additional charge to end users. The FCC has specified that a local usage plan is acceptable if it is "comparable to the one offered by the incumbent LEC in the service areas for which the applicant seeks designation." *See Federal-State Joint Bd. on Universal Srv.*, Report and Order, 20 FCC Rcd 6371, at ¶ 32 (2005). This comparability analysis must proceed on a case-by-case basis, and take account of value-added capabilities and services incorporated into a plan. *Id.* Denali's current local usage plans, summarized in Exhibit C, are comparable in value to those offered by ILECs operating in the requested ETC service area. Denali's plans offer consumers numerous benefits, including larger "local" calling areas, the availability of mobile service, and unlimited local and long-distance

calling options and nationwide coverage. The premium services include call waiting, three-way calling, and voicemail, among other services.

Dual Tone Multi-Frequency Signaling or its Functional Equivalent [47 C.F.R. § 54.101(a)(3)]. Dual tone multi-frequency (“DTMF”) signaling is a method of signaling that facilitates the transportation of call set-up and call detail information. The FCC has recognized that, with respect to wireless carriers, it “is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling.” *Federal-State Joint Bd. On Universal Srv.*, Report and Order, 12 FCC Rcd 8776, at ¶ 71 (1997). Denali currently uses out-of-band digital signaling and in-band multi-frequency signaling that is the functional equivalent to DTMF signaling.

Single-Party Service or its Functional Equivalent [47 C.F.R. § 54.101(a)(4)]. With respect to wireless carriers, “single-party service” affords a user a dedicated message path for the length of a user’s particular transmission. Denali meets this requirement with respect to each of its service offerings.

Access to Emergency Services [47 C.F.R. § 54.101(a)(5)]. “Access to emergency service” includes access to services, such as 911 and enhanced 911 (“E-911”), provided by local governments or other public safety organizations. Denali currently provides its voice customers in Illinois with such access, is capable of delivering automatic numbering information (“ANI”) and automatic location information (“ALI”) over its existing network, and otherwise satisfies applicable state and federal E-911 requirements. Further, Denali pays all applicable E-911 fees in a timely manner. Denali will continue to work with local public safety answering points (“PSAPs”) within its ETC service areas to make 911 and E-911 service available to its customers.

Access to Operator Services [47 C.F.R. § 54.101(a)(6)]. “Access to operator services” means access to automatic or live assistance provided to a customer to arrange for the billing or completion, or both, of a telephone call. Denali meets this requirement by providing access to operator services with respect to billing questions to customers dialing “611,” and access to operator services with respect to call completion to customers dialing “411.”

Access to Interexchange Service [47 C.F.R. § 54.101(a)(7)]. With respect to wireless carriers, “access to interexchange service” means access to the functional equivalent of the use of the loop, as well as that portion of the switch that is paid for by the end user, necessary to access an interexchange carrier’s network. Denali meets this requirement by providing all of its subscribers with the ability to make and receive interexchange or toll calls through Denali’s network.

Directory Assistance [47 C.F.R. § 54.101(a)(8)]. “Access to directory assistance” means access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings. Denali meets this requirement by providing access to directory assistance to customers dialing “411.”

Toll Limitation [47 C.F.R. § 54.101(a)(9)]. “Toll limitation” includes the offering of either “toll control” or “toll blocking” to qualifying low-income customers, as a means of limiting or blocking the completion of outgoing toll calls. An ETC is not required to provide either service if it is incapable of providing such service. Denali’s calling plans do not distinguish between local and toll calls at the point of dialing, such that Denali cannot offer toll limitation without blocking all service to a customer. However, if for any reason Denali changes the structure of its service plans to distinguish between local and toll calls, it will meet the toll limitation requirement by providing toll blocking.

B. Denali Will Advertise the Availability of and Charges for its Universal Service Qualifying Offerings [47 C.F.R. § 54.201(d)(2)]

Denali will advertise the availability of the supported services detailed above, and the corresponding rates and charges, in a manner designed to inform the general public within its designated ETC service areas. This advertising will occur through some combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet. Specifically, Denali will advertise the availability of Lifeline and Link-Up benefits throughout its service area by including mention of such benefits in advertising and continued outreach efforts to members of the community likely to qualify for Lifeline and Link-Up benefits. Denali's advertising will comply with the requirements of Part 757 of the Commission's rules. 83 Ill. Adm. Code § 757.

C. Denali Will Satisfy its Additional Obligations as an ETC

In addition to those requirements set forth in Section 54.201 of the FCC's rules, Denali will satisfy other ETC requirements adopted by this Commission and the FCC. In particular:

Commitment to Provide Service Upon Reasonable Request [47 C.F.R.

§ 54.202(a)(1)]. If a request is made by a potential customer within Denali's existing network coverage, it will provide service immediately using its standard customer equipment (handsets/wireless devices). If a potential customer requests service within Denali's designated ETC service area, but outside its existing network coverage, Denali will follow the six-step process specified in 47 C.F.R. § 54.202(a)(1)(i). Specifically, Denali will determine if service can be provided at reasonable cost by: (i) modifying or replacing the requesting customer's equipment; (ii) deploying a roof-mounted antenna or other equipment; (iii) adjusting the nearest cell tower; (iv) adjusting network or customer facilities; (v) reselling services from another carrier's facilities to provide service; or (vi) employing, leasing or constructing an additional cell

site, cell extender, repeater, or other similar equipment. Because Denali seeks only low-income support, as opposed to high-cost funding to support the construction of network facilities, it is not submitting a network improvement plan under 47 C.F.R. § 54.202(a)(1)(ii).²

Ability to Remain Functional in an Emergency [47 C.F.R. § 54.202(a)(2)].

Denali is committed to providing and maintaining essential telecommunications services in times of emergency. In particular, Denali maintains a reasonable amount of back-up power to ensure the functionality of its service without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. More specifically, all mobile switching centers and cell sites have battery backup power, each switching center has a dedicated diesel generator, and there are several cell site generators in the market area. In instances of power outages, priority is set based upon traffic, cell site location and time of day. In certain parts of the service area, a cell on wheels (“COW”) can be deployed. In case of a total switch outage, a mobile command center may be established by each switch vendor.

Satisfaction of Applicable Consumer Protection and Service Quality Standards [47 C.F.R. § 54.202(a)(3)]. Denali will comply with all applicable state and federal consumer protection and service quality standards. Further, Denali will abide by CTIA’s Consumer Code for Wireless Service (“CTIA Code”). Denali has already adopted the CTIA Code and is committed to compliance with the CTIA Code throughout its service areas, including in those areas where it is seeking designation as an ETC.

Denali remains committed to Illinois’ consumer protection and service quality in Parts 730, 731, 732 and 735 of the Commission’s rule as agreed to in its certification docket

² The FCC has made clear that this requirement applies only to carriers receiving high-cost support. *See 2005 ETC Order* at ¶ 23.

(Docket No. 08-0129). In addition, Denali hereby agrees that in the provision of wireless service, it will comply with the applicable provisions of Part 736 of the Commission's rules, or as order by the Commission. In addition, Denali will use its best efforts to resolve complaints received by the Commission, and designates the following contact person to work with Commission Staff to resolve any complaints or other compliance matters:

Leticia Grajiola
Corporate Relations Supervisor
Cricket Communications, Inc.
6380 South Fiddlers Green Circle
Greenwood Village, CO 80111
(720) 374-2855 (telephone)
(720) 374-9125 (facsimile)
governmentinquiry@cricketcommunications.com

Local Usage Plan [47 C.F.R. § 54.202(a)(4)]. As discussed above and in Exhibit C, Denali offers several local usage plans to customers. These plans, which will be available to low-income customers, are comparable to those offered by ILECs in the service areas for which Denali seeks ETC designation. Denali will offer a \$10.00 Lifeline discount. Of this amount, \$8.25 will be reimbursed from USAC and Denali will absorb the remaining \$1.75.

Equal Access [47 C.F.R. § 54.202(a)(5)]. Denali acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

Lifeline Certification and Verification [47 C.F.R. § 54.410]. Denali will certify and verify consumer eligibility to participate in the Lifeline and Link-Up programs in accordance with the rules of this Commission and the FCC.

Regulatory Fees. Denali pays all applicable federal, state, and local regulatory fees, including but not limited to universal service and E-911 fees, in a timely manner.

III. DESIGNATING DENALI AS A COMPETITIVE ETC WILL SERVE THE PUBLIC INTEREST

Designating Denali as an ETC will serve the public interest generally, and the needs of low-income customers in Illinois in particular. Denali has specifically tailored its wireless service plans to share the benefits of wireless telecommunications with underserved customers who have been left behind by other providers. Denali offers unlimited voice service at affordable rates starting as low as \$30 per month and unlimited broadband starting at \$35 per month, without the typical strings attached (such as credit checks, long-term commitments, and early termination fees) that otherwise prevent many economically disadvantaged customers from obtaining wireless services.

Denali fulfills a critical role in the marketplace by ensuring that many Americans who cannot qualify for, or afford, the services provided by other wireless providers can still enjoy the benefits of wireless telecommunications, including wireless broadband. Denali's flat-rate, unlimited service model is ideal for many consumers on a limited budget; other carriers often impose hefty overage charges if consumers exceed their usage limit. Many consumers cannot even qualify for service from other providers because of creditworthiness concerns or the inability to commit to a long-term contract. Designating Denali as an ETC will improve its ability to serve these customers, and thus will serve the public interest.

IV. GRANTING THIS PETITION WILL IMPOSE A NEGLIGIBLE BURDEN ON THE FUSF

Denali's designation will not burden the USF. It is not seeking high-cost benefits, which recently have been capped. Denali only is seeking low-income benefits in the form of Lifeline and Link-Up benefits, and as such Denali will impose a burden on the FUSF that can be characterized as negligible. It is in fact a non-factor in the Commission's analysis.

Denali submits that, if it is designated as an ETC and is able to compete for local exchange customers, it will spur a competitive response from affected ILECs as they seek to retain and attract customers. Such a response could include: improved service quality and customer service; new investments in telecommunications plant; more rapid deployment of high-speed data (DSL) service; wider local calling areas; bundled service offerings; and lower prices overall.

V. CONCLUSION

WHEREFORE, pursuant to Section 214(e)(2) of the 1996 Act, Denali Spectrum Operations, LLC respectfully requests that the Commission enter an order (1) designating Denali as an ETC in Illinois in a manner consistent with this Application, including ETC status for its wireless service offerings in the exchanges listed in Exhibit A hereto; and (2) for any other relief the Commission deems just.

Dated the 21st day of July, 2010.

Respectfully submitted,

DENALI SPECTRUM OPERATIONS, LLC

By: /s/ Joseph D. Murphy
Joseph D. Murphy

Joseph D. Murphy
MEYER CAPEL
A Professional Corporation
306 West Church Street
Champaign, IL 61820
(217) 352-0030 telephone
(217) 352-9294 facsimile
jmurphy@meyercafel.com

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

VERIFICATION

Brian Root, deposes and states that he is Wireless Operation Manager of the Applicants, that he has read the above and foregoing Application and knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.



BRIAN ROOT

Subscribed and sworn or affirmed
before me this ___th day of July, 2010.



Notary Public

