DIRECT TESTIMONY

OF

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TELECOMMUNICATIONS DIVISION

ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF SAFARI COMMUNICATIONS, INC.
Application for Limited Designation as an
Eligible Telecommunications Carrier

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Introduction

Q. Please state your name and business address.

A. My name is Jeffrey H. Hoagg. My business address is 527 East Capitol Avenue, Springfield, Illinois 62701.

Q. By whom are you employed and in what capacity?

A. I am employed as the Principal Policy Advisor in the Telecommunications Division of the Illinois Commerce Commission.

Q. Please briefly describe your educational background and work experience.

A. I have been employed by the Illinois Commerce Commission ("ICC" or "Commission") in the Telecommunications Division from 2000 to the present. Prior to this, I held the positions of Telecommunications Tariffs and Rates Analyst, Telecommunications Policy Analyst, and Special Assistant to the Deputy Chair of the Commission at the New York Public Service Commission. In 1993-94, I served as Special Advisor to Commissioner Barrett of the Federal Communications Commission ("FCC"). In these capacities, I have provided analyses and policy recommendations on a wide range of telecommunications issues. I received a M.A. degree in Economics from Cornell University, completed all requirements but dissertation for the Cornell Ph.D. in Economics, and my major field of graduate study was Industrial Organization and Regulation.

Overview

Q. What is the purpose of your direct testimony?

A. This testimony primarily addresses Safari's objections to Staff's recommended conditions for Commission designation of Safari as a wireless eligible telecommunications carrier ("ETC") for purposes of receiving federal "low income" Universal Service Fund ("USF") subsidization. These conditions are displayed in Attachment A to this testimony. I provide Staff's rationale and support for those conditions to which Safari objects in its Exhibit 1.02 ("Applicant's Response to Conditions Proposed by Commission Staff"). My testimony demonstrates that the Commission should reject Safari's objections and adopt Staff's recommended conditions.

Q. Please briefly summarize the federal statutory framework governing Commission designation of ETCs in Illinois.

A. Sections 214(e)(1) and 214(e)(2) of the Telecommunications Act of 1996 ("1996 Act") are the most important provisions governing Commission ETC designations in Illinois. These provisions make clear that in order for the Commission to designate an applicant as an Illinois ETC, it must affirmatively find such designation to be consistent with the public interest:

> 214 (e) PROVISION OF UNIVERSAL SERVICE.--
>
> (1) ELIGIBLE TELECOMMUNICATIONS CARRIERS.--A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 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), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
>
> (B) advertise the availability of such services and the charges therefor using media of general distribution.
>
> (2) DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS.--A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest. [Emphasis added.]

Q. Please describe any significant events or considerations that led Staff to propose these conditions for wireless ETC applicants.

A. The entire area of ETC designations for low income USF support (and particularly wireless low income ETC designations) has evolved rapidly and significantly over the last several years. This has presented the Commission with a “moving target” as it attempts to promote and protect the public interest in designating and overseeing the activities of "low income" ETCs. The most significant event has been the advent of pre-paid wireless resellers. Most or all of these carriers target low income customers for subsidized service as their primary or sole business in Illinois. This is possible due to the significant sums of money that can be claimed through the federal Lifeline and Linkup programs. The pre-paid resale (or primarily resale) business model is well suited to gain access to federal USF revenue streams while minimizing most costs of actually providing service to Lifeline customers. The pre-paid (as opposed to post-paid monthly billing) aspect of this model minimizes ongoing costs by avoiding the very substantial costs incurred in establishing and maintaining a monthly billing relationship with customers. The resale (or primarily resale) attribute minimizes initial costs of customer activation and connection. In Staff's estimation, experience now has clearly shown this model also is particularly well suited to potential abuse and flouting of the rules governing the federal Lifeline and Linkup programs.

The FCC clearly shares similar concerns and assessments, and is at least considering the possibility of imposing specific (and presumably more stringent) requirements upon pre-paid wireless resellers:

> If the Commission were to create a new reimbursement structure for carriers providing Lifeline service to low-income households, should the reimbursement mechanism be different for wireless and wireline ETCs, based on their potentially divergent costs for providing service? Would there

> be any reason to adopt a different framework for pre-paid wireless providers as opposed to post-paid?[1]

Q. Please provide an example to illustrate the "moving target" the Commission faces in protecting the public interest in its designation and oversight of "low income" ETCs.

A. Consider the following: Lifeline customers present the same billing and other costs as non-Lifeline customers for both wireline and post-paid wireless ETCs. For these ETCs, Lifeline subsidy reimbursements received simply replace revenues foregone by charging reduced rates to Lifeline customers. Thus, wireline and post-paid wireless carriers have no profit incentive to continue to serve a Lifeline subsidized customer if a given customer discontinues service or otherwise ceases paying the monthly bills presented for his or her Lifeline service. Where monthly bills are not paid, the wireline or post-paid wireless ETC cannot claim the USF subsidy to reimburse it for the difference between the Lifeline and non-Lifeline rate for service. Continuing to provide service where no revenue is received from either the customer or the USF program would mean simply incurring costs.

It is thus apparent that prior to the advent of prepaid wireless ETCs, the Commission had no need to impose Staff's condition 18 (eighteen) to

[1] *Lifeline and Linkup Reform and Modernization* Notice of Proposed Rulemaking, FCC 11-32. Para 251 (rel. Mar. 4, 2011) ("Lifeline NPRM").

prevent fraudulent or abusive ETC subsidy reimbursement claims for Lifeline customers who discontinue receiving Lifeline subsidized services.

This changes radically, however, in the presence of prepaid wireless ETCs. The condition 18 “non-usage policy” requirement is crucial for these ETCs because they have both the incentive and ability (absent such a condition) to claim USF subsidy reimbursement for Lifeline customers who have discontinued service. Since prepaid wireless ETCs incur no recurring monthly billing and associated expenses, all (or virtually all) of any Lifeline reimbursement received for a customer who has discontinued use of the prepaid service will flow directly to the ETCs bottom line.[2]

Q. Do the available data clearly show the causal role of the prepaid wireless business model in making “low income” USF the fastest growing of all USF programs?

A. Yes. The following table clearly demonstrates that the dramatic growth in the total of low income subsidies paid out to ETCs in Illinois is attributable to the advent of prepaid wireless ETCs (from $0 in 2008 to a 2011 annualized subsidy total for prepaid wireless ETCs of approximately $40 to $45 million). Over the same period, subsidies claimed by all other categories of ETCs have remained comparatively stable or even declined.

[2] For such a customer, all - or virtually all - costs are sunk from the perspective of the prepaid wireless ETC.

<u>TABLE 1</u>[3]

	2008	2009	2010	2011(6 MO)
ILECs	$8,018,583	$7,250,727	$6,512,110	$2,980,364
Wireline ETCs	$1,747,958	$1,720,683	$3,049,644	$498,873
Wireless (Non-Prepaid)	$5,788	$10,453	$13,733	$8,011
Wireless Prepaid	$0	$4,590,902	$26,179,642	$21,922,984
Total	$9,772,329	$13,572,765	$35,755,129	$25,410,232

These data are depicted graphically in Attachment B to this testimony.

It is important to keep in mind that the prepaid business model is uniquely well positioned to gain access to Lifeline and Linkup subsides while minimizing costs of providing subsidized service, and if the ETC is so inclined, to take advantage of any weaknesses in program protections against waste, fraud and abuse.

Q. Please briefly describe recent FCC efforts to reduce waste, fraud and abuse in the low income USF program.

A. On March 4, 2011 the FCC issued a Notice of Proposed Rulemaking aimed at reforming the federal Lifeline and Linkup programs ("Lifeline NPRM") to reduce waste, fraud and abuse, control costs, and increase accountability. Paragraph 46 of this NPRM underscores the seriousness of the FCC's concerns and its intent:

[3] Universal Service Administrative Company (USAC) 1st Quarter 2012 Report - LI05.

> We are committed to eliminating waste, fraud, and abuse in Lifeline/Link Up, and to identifying and penalizing program violations when they occur. We recognize that the recent expansion in program demand, as well as marketplace developments, present increased concerns about potential waste and misconduct. We propose to strengthen our rules to more rigorously ensure that the program subsidizes no more than one subscription per eligible residential address, and to improve audits of the program. We also propose rule changes to ensure that carriers are reimbursed only for the provision of Lifeline services to current customers. Finally, we propose to modify our rules to the extent that they offer unnecessary reimbursement to carriers for expenses that may be inflated or unjustified. The continued success of Lifeline/Link Up depends on targeting support to those who qualify, and ensuring that support does not extend beyond the confines of our rules.[4]

Among other things, the FCC proposes reforms and changes to its rules to address the following issues it finds to be of serious concern:

- The problem of multiple ETCs seeking reimbursement for Lifeline service provided to the same residence (duplicate reimbursement claims by ETCs).
- The problem of ETCs continuing to receive reimbursement for customers who have discontinued service or are no longer eligible to receive Lifeline support (in particular pre-paid wireless resale).
- The problem of fabrication or exaggeration of connection costs and charges for the purposes of receiving inappropriate Linkup reimbursement.
- The risks customer self-certification of eligibility carries for invalid Lifeline subscriptions and inaccurate reimbursement amounts claimed by ETCs.
- Concerns that existing annual verification requirements and procedures may not adequately protect these USF programs form waste, fraud and abuse.

[4] Lifeline NPRM at 46.

Q. Would FCC action placing more stringent requirements upon ETCs to reduce waste, fraud and abuse in these programs impact ETCs currently operating in Illinois, and ETC applicants such as Safari?

A. Yes. This is clear from various statements in the March 4, 2011 NPRM, including the following:

> [W]e propose a core set of federal eligibility, certification, and verification requirements that would apply in all states, while seeking comment on allowing states to adopt additional measures that could complement the federal standards.[5]

All available information now indicates the FCC will adopt strengthened and more stringent nationwide conditions and requirements upon ETCs by the end of this year. Staff sees no reason to expect that this Commission will not retain its existing authority to adopt Illinois specific requirements it deems necessary to protect the public interest in its designation of ETCs in the state.

Q. Subsequent to issuance of the March 4, 2011 Lifeline NPRM, did the FCC take immediate action to address the problem of duplicate claims for reimbursement submitted by ETCs?

A. Yes. The FCC determined that the problem of duplicate claims for reimbursement submitted by ETCs has been so significant it should take singularly swift action to address and reduce this particular abuse. Among other actions, the FCC determined that:

[5] Lifeline NPRM at 50.

- USAC must notify consumers receiving multiple Lifeline benefits that they are allowed to have only one Lifeline-subsidized phone service;
- Consumers have 30 days to choose which subsidized phone service to keep;
- The company or companies not chosen by the consumer must de-enroll the consumer from Lifeline within five days after notification by USAC of the consumer's choice.[6]

<u>Safari's Objections to Staff Conditions 1, 3, 7, 8, 9, 10 and 15</u>

<u>Condition 1</u>

Q. Please summarize Safari's objections to a requirement that it demonstrate six months of Illinois operating experience prior to submission of a wireless ETC application.

A. Safari contends that this condition would constitute an unlawful entry barrier that would be (i) anticompetitive, (ii) delay the benefits of additional ETC providers to low income consumers, and (iii) frustrate public policy established by the FCC.

Q. Please respond to Safari's contention that this proposed requirement would constitute an unlawful entry barrier.

[6] *Lifeline and Linkup Reform and Modernization* Report and Order, FCC 11-97. Paragraphs 7, 15. (rel. June 21, 2011).

A. While I am not an attorney, I am aware of nothing that would support this argument. The Commission is the single entity empowered under federal law to determine a carrier's fitness for designation as an ETC in Illinois. The Commission has broad discretion to determine conditions required to ensure such designations are in the public interest (as required by federal statute). If the Commission determines this proposed condition is in the public interest, it is entirely lawful (by the plain language of the federal statute governing ETC designations) for the Commission to impose it in Illinois.

Safari is further mistaken in characterizing this condition as an "entry barrier." This condition has nothing to do with entry. Safari was granted a certificate of service authority by the Commission, and it is perfectly free to conduct business in Illinois pursuant to that certificate. Moreover, it is perfectly free to provide services to customers at Lifeline rates. ETC designation is nothing more than granting a carrier eligibility to receive, where appropriate, financial reimbursement for certain revenues foregone in providing eligible customers service at Lifeline discounted rates.

If in using the term "entry" Safari in fact means access to subsidies provided by the general body of ratepayers and administered by the FCC, it is again wholly mistaken in any argument alleging this proposed condition would be unlawful. The Commission is the designated "gatekeeper," determining under what conditions any particular carrier should be granted access to these subsidies, and it is the Commission's responsibility to impose conditions that serve the general public interest in controlling and overseeing such access. If it finds the proposed condition will serve the public interest, it can and should impose it upon Safari.

The only delay Safari can correctly point to with regard to this condition is in fact its access to these subsidies. The Commission can and should weigh that short delay against the benefits associated with such delay. I set forth and discuss those benefits below.

Q. Please respond to Safari's contention that this condition is unlawful because it would frustrate FCC public policy.

A. Safari's contention that this condition would frustrate FCC public policy also is unfounded. This is demonstrated by even a casual perusal of the FCC's "ETC Order," wherein the FCC set forth its own requirements for those ETC designations it is empowered to make. The FCC clearly acknowledges that under the 1996 Act, its own determinations regarding ETC designations made by state Commissions are advisory only, and are not binding upon state Commissions such as Illinois:

> We decline to mandate that state commissions adopt our requirements for ETC designations. Section 214(e) (2) of the Act gives states the primary responsibility to designate ETCs and prescribes that all state designation decisions must be consistent with the public interest, convenience, and necessity. We believe that section 214(e)(2) demonstrates Congress's intent that state commissions evaluate local factual situations in ETC cases and exercise discretion in reaching their conclusions regarding the public interest,

> convenience and necessity, as long as such determinations are consistent with federal and other state law.[7]

The FCC does encourage states to make use of the conditions the FCC applies in its own ETC designations in order for there to be reasonable levels of uniformity among the states:

> We encourage state commissions to require ETC applicants over which they have jurisdiction to meet these same conditions and to conduct the same public interest analysis outlined in this Report and Order.[8]

Q. Please respond to Safari's contention that requiring six months of Illinois operating experience prior to ETC application would impose an unlawful discriminatory burden on new ETC applicants.

A. While I am not an attorney, I am aware of nothing to support this argument. By law, the Commission must consider each and every Illinois ETC application individually on its own merits, and it must find each such application to be in the public interest in order to grant ETC designation. Commission treatment of any prior ETC applicant has no bearing on the fact-specific and circumstance-specific investigation and assessment of Safari's application. If the Commission finds that a six month Illinois operating experience requirement would serve the public interest as a condition for initial ETC designation of Safari, it can and should adopt this condition.

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[7] Federal Communications Commission, Report and Order ("ETC Order"), CC Docket No. 96-45, FCC 05-46, (Rel. Mar. 17, 2005).
[8] ETC Order at 61.

Safari's objection to this proposed condition is readily dismissed upon recognizing the simple fact that the Commission's public interest calculus changes over time, and in each particular case, as more Lifeline ETCs are designated in Illinois. The benefits to Lifeline eligible customers (and hence the potential promotion of the public interest) are clearly greater for the first one, two or few ETCs designated in a given service territory than for, say, the hundredth such ETC designated. The Commission can accordingly impose differential conditions upon ETCs if that serves the public interest. Further, over time, the Commission and Staff increasingly have become aware of and knowledgeable about the potential for waste, fraud and abuse in these programs. The Commission is wholly justified in imposing increasingly stringent conditions upon new ETC applicants in Illinois, if in weighing additional information as it becomes available and apparent, such information argues for stronger measures to protect the public interest. Safari simply fails to recognize these fundamental realities governing Commission evaluation of applicants for ETC designation in Illinois.

In any event, Staff currently is pursuing a rulemaking of general applicability aimed at strengthening Illinois protections against waste, fraud and abuse in the procurement of these ratepayer funded subsides by both ETCs and consumers. More stringent requirements would apply to current and future Illinois ETCs if the Commission adopts the Staff envisioned changes to the applicable Commission Administrative Code Parts.

Q. Why does Staff believe it would serve the public interest to require Safari to demonstrate six months of Illinois operating experience prior to its ETC application?

A. Staff believes that a six month (or longer) operating record will provide the Commission crucial information regarding an applicant's ability to adequately provide Lifeline services to Illinois customers. For example, Section 214 of the 1996 Act requires that ETCs must provide supported services throughout a designated ETC serving territory. Staff's proposed condition would provide some evidence for the Commission's public interest deliberations regarding whether the carrier is able to provide services, as required, throughout the requested ETC area.

It is not in the public interest for the Commission to designate an inexperienced carrier as an ETC, and subsequently find that carrier unable to operate under their proposed business model, or find a carrier designated as an ETC operating under a failing business model. Nor is it in the public interest to designate as an ETC a carrier which is not committed to complying with applicable ETC rules and requirements.

Staff further believes the Commission can find it contrary to the public interest to designate as an ETC a carrier which will rely completely on subsidization from federal low income USF programs. Staff does not believe Lifeline and Linkup support programs were intended to function as profitable business plans for ETCs, but rather as a way to reimburse and make whole carriers who provide discounted services to low-income customers. A six month record of service in Illinois would give the Commission the necessary information to protect the fund from carriers unable to provide adequate service, or unable or uncommitted to providing supported services consistent with rules and regulations set forth by the FCC and ICC.

Moreover, in this instance, as with the other proposed conditions, Staff believes any burden placed upon Safari in order to enable the Commission to ensure its ETC designations are truly in the public interest is clearly not great, and the potential benefits outweigh any potential burden associated with this condition. Staff is confident the Commission would find this is a very reasonable approach to increase its ability to fully assess ETC candidates, particularly in light of the recent unprecedented quarter-over-quarter and year-over-year growth in subsidy payouts to wireless pre-paid carriers such as Safari, and increased concerns about program integrity and carrier behavior.

Q. Please provide an example to illustrate how Staff's proposed Illinois operating experience requirement would serve the public interest.

A. The case of IQ Telecommunications ("IQ") provides a good example of how this requirement would serve the public interest. IQ was granted ETC designation for wireline operations by the Commission in its October 8, 2008 Order in Docket No. 08-0453. That Order contained the following Commission conclusion and analysis:

> **G. Local Usage/Rate Plans**
>
> As indicated above, under FCC guidelines, an ETC Applicant must demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation. The FCC has not adopted a specific local usage threshold. FCC ETC Order at ¶32; 47 CFR §54.202(a) (4).
>
> IQ Telecom presented evidence to demonstrate that it offers local usage plans comparable to the service plans offered by Illinois Bell. IQ Telecom offers its Basic Plan that includes unlimited local calling for $29.99 per month, which is comparable to Illinois Bell's Flat Rate Package. IQ Telecom also offers full feature packages, including all features, which can be added to unlimited local calling for an additional $7.00 per month.
>
> IQ Telecom asserts that, in terms of comparability, its local calling packages are offered to all who apply for service regardless of past credit history, which tends to lead to a very large churn and default rate. Consequently, the cost of doing business may be higher for IQ Telecom than for the incumbent. In addition, IQ Telecom commits to continue to offer a local usage plan comparable to that offered by the incumbent LEC. (IQ Telecom Verified App. at §12). No party questioned IQ Telecom's assertion that its rates are comparable to that of the incumbent.
>
> Having reviewed the record, including IQ Telecom's commitment noted above, the Commission finds that IQ Telecom's local usage and rate plans meet the requirement

> that it offer local usage and rate plans comparable to those offered by Illinois Bell [emphasis added]. [9]

The Commission clearly and explicitly relied upon IQ's representations regarding this rate plan in designating it as an ETC. In fact, however, IQ offered this rate plan to customers for, at most, a matter of days. In a subsequent docket (No. 10-0379) in which IQ sought ETC designation as a wireless carrier, it explained this failure to offer the wireline rate plan relied upon by the Commission in Docket 08-0453 as follows:

> IQT has always provided a basic plan satisfying the basic plan requirements for ETC designation. IQT's original petition on Docket 08-0453 stated that IQT offered a basic package to its end users comparable to AT&T at a monthly cost of $29.99. <u>However, IQT increased the amount for the basic plan to $59.99 after completing a thorough analysis of the economic impact of the original pricing for the basic plan [emphasis added]</u>.[10]

It is readily apparent that if Staff's proposed condition had been in place in 2008 (at the time of IQ's initial application for ETC designation), this failure of IQ to abide by its commitments would not have occurred, or at least it is much less likely this would have occurred.

<u>Condition 3</u>

Q. Please summarize Safari's objection to Staff's proposal that Safari

[9] Docket 08-0453 IQ Telecom, Inc. Application for Designation as an Eligible Telecommunications Carrier for Purposes of Receiving Federal Universal Service Support pursuant to Section 214(e)(2) of the Telecommunication Act of 1996, Order at pages 16-17.
[10] Docket 10-0379, IQ Rebuttal Testimony at 7.

seek Lifeline support only, and not seek designation for Linkup reimbursements.

A. The sum total of Safari's objection is that one other ETC previously designated by the Commission currently is designated for Linkup reimbursement eligibility.

Q. Please respond to Safari's objection to the proposal that it seek Lifeline support only, and not seek designation for Linkup reimbursements.

A. Safari's objection is without merit and should be rejected. The ETC cited received Linkup designation as part of a stipulation that, at that time, both Staff and the Commission determined were in the public interest. As part of that negotiated stipulation, Midwestern Telecommunications, Inc. ("MTI") agreed to several conditions to which it objected.

With the benefit of hindsight, it is clear to Staff that granting Linkup eligibility to MTI was an error, and Staff expects that this eligibility will be eliminated through actions of this Commission, the FCC (presumably in December), or both. Staff convened an informal workshop on November 16, 2011, beginning the process of codifying the condition eliminating Linkup reimbursement eligibility for wireless ETCs, along with all the others in Commission Administrative Code Parts. As repeatedly shown in this testimony, it is inapposite for Safari to point to any differential treatment between it and any other ETC or ETC applicant. The

Commission must consider every Illinois ETC application individually on its own merits, and must find each such application to be in the public interest in order to grant ETC designation. Commission treatment of any prior ETC applicant has no bearing on the fact-specific and circumstance-specific investigation and assessment of Safari's application. Moreover, the Commission and Staff increasingly have become aware of and knowledgeable about the various potentials for waste, fraud and abuse in these programs. The Commission is entirely justified in imposing increasingly stringent conditions upon new ETC applicants in Illinois, if in weighing additional information as it becomes available and apparent, such information argues for stronger measures to protect the public interest.

It has become evident that Safari does not require and should not receive Linkup support in order to serve eligible low income customers. It has not provided evidence of any valid connection costs it incurs, as a wireless (primarily) reseller, which would qualify it for Linkup reimbursement consideration. All available evidence demonstrates that Safari incurs no such connection costs. Staff Data Request ("DR") JH 2.02, issued August 17, 2011, requested the following information from Safari:

> Please provide the most recent actual amounts for each cost incurred to <u>connect</u> (i.e., activate) a single Lifeline customer (for each cost listed and identified in response to JH 2.01 above). Provide complete documentation and support for each cost level or amount provided. If necessary, provide estimates or projections.

Staff Data Request ("DR") JH 2.02, issued August 17, 2011, and Safari's response are displayed in Attachment C to this testimony.

Safari lists a number of costs it asserts are incurred when serving a new customer. These costs are all general customer acquisition costs, including marketing, servicing and overhead – none of which are direct customer connections costs appropriate for Linkup reimbursement. The only category of costs identified by Safari which might potentially reflect and include direct customer connection costs is the following:

Start Confidential***

End Confidential *****

None of these costs are unavoidable nonrecurring costs directly incurred through the act of connecting a single new Lifeline customer to the network in order to provide service.

Q. Does Staff expect that the FCC will revise its rules in the near future to eliminate or limit Linkup reimbursements for pre-paid wireless providers such as Safari?

A. Yes. Staff expects that the FCC will take such actions by the end of this year. The FCC's March 4, 2011 NPRM clearly states the FCC's basic objective in this regard:

> We seek to eliminate any incentive or opportunity for carriers to impose charges on program participants in order to increase universal service support, as that would represent a waste of funds.[11]

The FCC recognizes that since service connection now is generally accomplished remotely via software, actual costs of installation have decreased significantly and current rates of Linkup reimbursement likely are too high. Moreover, since "…there is concern that some ETCs may be inflating connection charges in an effort to collect money from the Fund…", the FCC asks "…whether we should require all ETCs seeking Linkup reimbursement to submit cost support to USAC for the revenues they forgo in reducing their customary charges." The FCC also seeks comment on whether Linkup should be "…limited to costs associated with activating a phone line or establishing a billing relationship."[12]

This is particularly pertinent to carriers such as Safari whose traffic is primarily or wholly carried through resale of another (facilities-based) carrier, and who does not incur the substantial costs associated with establishing a monthly billing relationship with each customer. Collection of Linkup reimbursement is unnecessary, inappropriate and wasteful for such carriers. Staff is aware of no persuasive evidence indicating that such carriers require Linkup support to serve low income customers eligible for Lifeline. In Staff's opinion, Linkup reimbursements for such

[11] Lifeline NPRM at 26.
[12] Id., at 28.

carriers simply flow to the carrier's bottom line, wastefully enriching these carriers with no corresponding benefits flowing to the intended recipients – i.e., low income customers.

Q. Has the FCC granted any request for authorization to receive Linkup reimbursement from any pre-paid wireless provider such as Safari?

A. No. The FCC has repeatedly declined to grant, for purposes of Linkup support, requests for forbearance from the Section 214(e)(1)(A) requirement that a carrier designated as an ETC for purposes of federal universal service support provide services, at least in part, over its own facilities. In each such case before it, the FCC has found that these requests do not meet the required standards. In a recent such case, the FCC made clear the resolution of these requests for Linkup reimbursement:

> To date, the Commission has not granted forbearance from the facilities requirement to any Lifeline-only ETC to offer Link Up, as there has been no adequate showing by a petitioner that its request for forbearance for Link Up support, which offers discounts on the initial connection of the service, meets the statutory requirements for forbearance.[13]

In contrast, for purposes of Lifeline support and reimbursement, the FCC has granted numerous requests for forbearance from the statutory facilities requirement. Staff believes this reflects an FCC assessment that

[13] *Telecommunications Carriers Eligible for Universal Service Support; Platinum Tel, LLC Petition for Forbearance; CAL Communications, Inc. Petition for Forbearance; ReCelluar, Inc (MSA Wireless) Petition for Forbearance*, WC Docket No. 09-197, FCC 11-139, Order at 21 (2011).

pre-paid largely or wholly resale carriers such as Safari do not require Linkup reimbursement to serve Lifeline eligible customers.

Q. Has Safari presented any evidence to suggest that granting it ETC status for Lifeline reimbursement alone (and not for Linkup reimbursement) would in any way disadvantage low income USF program eligible consumers?

A. No. Safari has presented no evidence, argument or any reason at all to reasonably think that granting Safari Lifeline only ETC status would disadvantage the low income USF program target population in any way.

Q. What is a "customary" charge for service connection or service activation?

A. Speaking generally, such a customary charge is a fee that a carrier customarily, or routinely, charges its customers for service connection. For such a charge to be considered a "customary" charge, a carrier must routinely sign up new customers, and customers must routinely pay this charge for service connection.

Q. Is the presence of a "customary" connection charge necessary for ETC designation for purposes of receiving Linkup reimbursement?

A. Yes. The FCC's rules prescribe that Linkup support amounts are determined by a carrier's customary charge for service connection. Reimbursement amounts are limited to one half the "customary" charge where that charge is no greater than $60 and to $30 otherwise.[14] A carrier with no customary charge is ineligible to receive Linkup support.

Q. Has Safari established that it has such a required "customary" connection charge?

A. No. Safari in effect asserts that it has "customary activation charge" of $60. However, Safari has not performed any service connection or activation in Illinois. It has not billed (and certainly has not routinely billed) any Illinois customer $60 for service connection or activation. Safari clearly has not established that it has a customary charge of $60 (or any other amount). For this reason alone, Safari is ineligible for ETC designation for purposes of Linkup reimbursement.

<u>**Conditions 7 and 8**</u>

Q. Please summarize Safari's objection to the proposal that, if found qualified, Safari should initially be granted a one year interim ETC designation, renewable for a second one year designation.

A. Safari objects that this would establish a condition and regulatory burden not previously imposed upon ETC applicants, and that there is no statutory or regulatory basis for this.

Q. Please respond to Safari's objection to a one year interim ETC

[14] See 47 CFR §54.411(1).

designation, renewable for a second one year designation.

A. Staff believes the Commission should find Safari's objection wholly without merit, and should adopt this requirement if Safari is granted ETC designation.

By federal statue**,** the Commission considers every Illinois ETC application individually on its own merits, and it must find each such application to be in the public interest in order to grant ETC designation. Commission treatment of any prior ETC applicant has no bearing on the fact-specific and circumstance-specific investigation and assessment of Safari's application. If the Commission finds that a one year initial ETC designation of Safari is in the public interest, it should adopt this condition.

The simple but undeniable fact is that the Commission's public interest calculus changes over time as more Lifeline ETCs are designated in Illinois. As stated previously, the benefits to Lifeline eligible customers (and hence contribution to and enhancement of the public interest) are clearly greater for the first few ETCs designated in a given service territory than for the hundredth such ETC designated. Safari requests ETC designation for the non-rural exchanges of AT&T's serving territory. As of September 2011, 15 (fifteen) separate individual ETCs are providing Lifeline supported services in AT&T's serving territory. A list of these ETCs, along with basic information about their designations, is displayed in Attachment D. Safari may not like it, but the bar for finding its ETC designation for this serving territory to be in the public interest can and should be higher than previously designated ETCs. Staff believes that this bar should include all the proposed conditions to protect against any waste, fraud and abuse associated with Safari's claims for USF subsidization if it is granted ETC designation.

As discussed above, Staff currently is pursuing a rulemaking aimed at strengthening Illinois protections against waste, fraud and abuse in the procurement of these ratepayer funded subsides by both ETCs and consumers. These new requirements would apply to all current and future Illinois ETCs if the Commission adopts the Staff envisioned changes to the applicable Commission Administrative Code Parts.

Q. Why does Staff urge adoption of its proposal that, if found qualified, Safari be granted an initial one year interim ETC designation, renewable for a second one year designation?

A. Experience has shown that ensuring ongoing compliance with all applicable requirements by ETCs can be difficult. Staff has concluded that this proposal will help ensure that Safari does indeed comply with all applicable requirements, since there would be significant events and milestones at which its performance and compliance with all requirements would be reviewed. Moreover, Staff believes the regulatory burden placed upon Safari to achieve this increased oversight is clearly not great, and the potential benefits of this requirement outweigh any potential costs and additional regulatory burden associated with this recommended treatment of new ETC applicants. Staff believes this is a very reasonable approach to increase needed oversight upon new ETCs, particularly in light of the recent unprecedented quarter-over-quarter and year-over-year growth in subsidy payouts to wireless pre-paid carriers such as Safari, and increased concerns about program integrity and carrier behavior.

Q. Can't the Commission simply revoke the ETC status of a newly designated ETC such as Safari if that ETC fails to abide by its commitments, does not comply with all applicable rules and regulations, or otherwise acts in a manner contrary to the public interest?

A. That is not clear. Staff is not aware of any specific rule, regulation or order that would render the Commission unable to revoke an EC designation for good cause shown, and Section 10-113 authorizes the Commission to rescind prior orders. However, the Commission has not rescinded an ETC designation, and Staff is not aware of any state Commission having rescinded an ETC designation.

Assuming revocation of an ETC designation for cause is properly within the authority of state Commissions, doing so likely would be a lengthy and difficult process if the ETC in question opposes such revocation. During the time period a revocation proceeding were underway, such an ETC could continue to act in a manner contrary to the public interest.

In Staff's estimation, it is clearly preferable for the Commission to have the ability (in a timely manner) to simply decline to renew the ETC status of a newly designated ETC, where evidence demonstrates that such action would be in the public interest.

Q. Is there reason to believe that the FCC also is concerned about existing levels of oversight regarding newly designated ETCs?

A. Yes. The FCC apparently shares similar concerns, and recognizes the particular need for increased oversight of new ETCs:

> With the growth of newly designated ETCs in a number of states, there may be a need for a more rigorous audit program to provide assurance that new participants have established adequate internal controls to meet their obligations. For that reason, we propose that all new ETCs be audited after the first year of providing Lifeline-supported service.[15]

<u>Condition 9</u>

Q. Please summarize Safari's objections to any aspects or provisions of Staff's proposed condition 9 (nine).

A. Safari does not object to the first fundamental provisions of this condition

[15] Id., at 33.

which would require an applicant to provide valid, dated proof of identity and program participation at the time of initial enrollment. The FCC is contemplating imposing just such a requirement upon all ETCs and customers seeking federal low income USF subsidization:

> [W]e propose to eliminate the option of self-certifying eligibility and to require all consumers in all states to present documentation of program eligibility when enrolling.[16]

However, Safari does object to the proposed requirement that copies of such required documentation be retained no less than three years after the customer terminates service with Safari. Safari cites the following reasons for this objection:

- USAC does not require such retention of documents;
- Fears that this creates the potential for disclosure of customer proprietary information (and this would be contrary to public policy);
- This is not consistent with Safaris' business practices; and
- Safari is not aware of any other state commission imposing such document retention requirements.

Q. In Staff's estimation, do any of the reasons cited by Safari for this objection have merit?

A. No, with the possible and limited exception of the second reason cited by Safari. First, the argument that this is not consistent with Safari's business practice is without merit. Safari is requesting subsidization by a

[16] Id at 50.

government program funded by ratepayers to conduct at least part of its business in Illinois. If its business practices are not consistent with any ETC requirement found appropriate by the Commission, Safari is free to cease seeking government subsidization. Second, the fact that no other state commission may have such a condition, if correct, is simply a point of information for the Commission to consider. Third, the argument that USAC (or more correctly, the FCC) currently does not require such document retention misses the point entirely. This is nothing more than an argument that the status quo is acceptable – i.e., that protecting against combating waste, fraud and abuse in this program need not and should not be a concern of this Commission. The Commission should roundly reject all such arguments. It bears repeating that the ICC confers ETC designations in Illinois and must determine what is in the public interest. The Commission can and should determine that more stringent oversight requirements than those in current FCC and USAC practices are in the public interest. Indeed Staff considers this proposition self-evident. The FCC is poised to overhaul its existing level of oversight and accountability through the imposition of more stringent ETC requirements at the federal level.

It is worth noting that USAC considers the best practices for Lifeline program related documents to be as follows:

> Retain all Lifeline related documents for at least three years, including:

- Customer bills
- Subscriber lists
- Relevant tariffs and price lists
- Proof of advertising
- Certifications from resellers
- Applicable state rules[17]

Since Safari cited USAC policies in its objection to the proposed document retention condition, Staff believes the Commission would be warranted in concluding Safari should not object to these USAC best practice document retention policies.

Q. Please explain why Staff believes that retention of customer eligibility and other documentation establishing customer eligibility at the time of initial eligible customer enrollment is imperative.

A. Absent an adequate document retention requirement, the Commission cannot be certain (and be able to verify where necessary or desirable) that ETCs are in fact requiring customers to provide crucial documentation proving eligibility at the time of initial enrollment. Such documentation currently is the only meaningful way to protect against waste, fraud and abuse associated with ETCs receiving unwarranted subsidies for ineligible customers. And only if the Commission can direct an ETC to produce copies of these crucial documents can it confirm compliance with this

[17] "*Universal Service Fund Eligibility and Compliance*" Presentation to NARUC Staff Subcommitte, St. Louis, Mo., November 13, 2011, slide 49.

requirement. Absent document retention, ETCs have direct financial incentives to flout any Commission requirement that dated and valid proof of customer eligibility for subsidization is obtained by the ETC at the time of initial program enrollment.

<u>Condition 10</u>

Q. Please summarize Safari's objections to proposed condition number 10 (ten), which would require Safari to annually verify (via valid dated documentation) the continued eligibility of each Lifeline customer.

A. Safari objects to a requirement that it annually verify the continuing eligibility of each Lifeline customer on the following bases:

- USAC requires such annual eligibility verification for only a sample of ongoing Lifeline customers;

- The proposed requirement would be costly and burdensome; and

- This requirement currently does not apply to existing Illinois ETCs.

Q. Please respond to Safari's objections to annual verification of the continued eligibility of each Lifeline customer.

A. Staff believes each of the bases for Safari's objection to this condition is without merit and should be rejected by the Commission. First, Safari is confused about USAC's role in administering federal low income USF programs. USAC does not determine requirements for annual verification for any ETC, or for that matter make any general policy determinations whatsoever concerning ETCs. Safari apparently means to reference the FCC and the policy determinations it has made concerning those ETCs it designates (which of course are not in Illinois) and those ETCs designated in so-called federal "default" states (which again is not Illinois).

The FCC's current policy of permitting sampling of Lifeline customers to verify ongoing eligibility is neither binding upon this Commission for purposes of its ETC designation, nor is it adequate or appropriate policy for resale pre-paid wireless ETCs (as Safari hopes to be). The status quo practice of allowing such ETCs to sample only a small percentage of their ongoing Lifeline customers to verify eligibility contributes to potential waste fraud and abuse in this USF program. Indeed, the FCC itself recognizes this fact, and is actively considering strengthening its current minimal annual verification requirements:

> We propose to increase sample sizes for ongoing verification and to require ETCs in all states to submit verification data to USAC and the Commission.[18]

Staff acknowledges there would be additional costs associated with the proposed annual verification requirement. The Commission would weigh any cost or burden associated with its requirement for annual eligibility

[18] Lifeline NPRM at 150.

verification eligibility against the benefits that would accrue. These benefits include increased ongoing compliance with rules and regulations governing the receipt of USF subsidization, and increased protection against waste fraud and abuse. In any event, Staff recommends that the Commission find Safari's simple assertion of increased costs and burden wholly unpersuasive. Only if Safari can demonstrate these persuasively should the Commission accord this argument any weight.

Finally Safari's objection that this does not apply to existing ETCs should be rejected here, as everywhere else Safari raises this objection. The infirmity of this argument has been demonstrated above, for the reasons given above, and need not be repeated here.

<u>Condition 15</u>

Q. What is Staff's proposed condition number 15 (fifteen)?

A. This is a reporting requirement, intended to provide Commission Staff with documentation and information it could utilize to monitor and assess important aspects of Safari's ongoing performance in fulfilling ETC obligations. Condition 15 reads as follows:

> Applicant will submit, within 30 days of the end of each calendar quarter, to the Director of the Telecommunications Division the following items:

A. Copies of all completed/signed Lifeline Enrollment Forms submitted during the quarter by each Lifeline customer at the time of initial enrollment.

B. Copies of all dated official documentation provided during the quarter by each Lifeline customer at the time of initial enrollment as proof of identity and program participation consistent with the requirements specified in Code Part 757.10 and Condition 9.

C. Copies of all completed/signed Lifeline Annual Verification Forms submitted during the quarter by each Lifeline customer at the time of annual verification of the customer's continued eligibility.

D. Copies of all dated official documentation provided during the quarter by each Lifeline customer at the time of annual verification as proof of identity and continued eligibility consistent with the requirements specified in Condition 10.

E. A summary of the Applicant's annual verifications conducted during the quarter in accordance with Condition 10, including the following:

a. The number of customers that were due for annual verification during the quarter (i.e., the number of Lifeline customers that have been enrolled in the Applicant's Lifeline program for 12 months or a multiple of 12 months).

b. The number of customers that responded to the annual verification.

i. The number of customers that provided all the required documentations for proof of continued eligibility as specified in Condition 10.

ii. The number of customers that responded but failed to provide all the required documentations for proof of continued eligibility as specified in Condition 10.

c. The number of customers that failed to respond to the annual verification request.

Q. Please summarize Safari's objections to Staff's proposed condition number 15.

A. Safari objects to provisions 15(A) and 15(B) on the grounds these would be burdensome. Safari objects to provisions 15(C) and 15(D) by repeating its objections to Staff proposed condition number 10. Finally, Safari indicates it does not object to provision 15(E) if Staff condition 10 is not imposed. As discussed above, condition 10 would require annual verification (using valid dated documentation) of the continued eligibility of each Lifeline customer.

Q. What is Staff's response to Safari's objections to proposed condition number 15?

A. Staff's response to Safari objections to condition 10 (repeated in Safari's objections to condition 15) is provided above in this testimony and need not be repeated here.

With respect to Safari's objections that provisions 15(A) and 15(B) would be burdensome, Staff is open to discussion regarding electronic conveyance of such information, or other approaches that would minimize any associated burden while providing Staff with crucial reporting information.

<u>The Commission's Public Interest Evaluation</u>

Q. Does Safari have the burden of proof to show that the public interest in Illinois would be served by designating it an ETC?

A. Yes. The burden of proof appropriately rests entirely upon Safari to convincingly demonstrate ETC designation is in the public interest. Staff recommends that if the Commission finds Safari has failed to meet that burden, it should reject Safari's petition for ETC designation.

In its 2005 ETC Requirements Order, the FCC concluded as follows regarding an ETC applicant's burden of proof:

> In determining whether an ETC has satisfied these criteria [the factors weighed in analyzing the public interest ramifications], the Commission places the burden of proof upon the ETC applicant.[19]

It is appropriate for this Commission to do likewise in this proceeding.

Q. Please summarize Safari's argument that the public interest would be served in Illinois by designating it an ETC.

A. Safari makes the following arguments:

- Designating Safari as an ETC would increase competition and customer choice, and as a result, its designation as an ETC likely would expand participation in the Lifeline program, and

- As a wireless carrier, Safari could often serve a larger calling area than a wireline carrier, and provide customers the convenience of mobility.

Q. Should the Commission find these arguments persuasive or adequate to conclude designating Safari as an ETC would be in the public interest?

[19] ETC Order at 44.

A. No. Staff believes that any objective analysis of these arguments leads to a conclusion that Safari has not met its burden of proof to show its ETC designation would serve the public interest. Staff recommends that the Commission decline to allow Safari to rely solely or even primarily upon an assertion of increased competition as a consequence of designating it an ETC. As the FCC concluded in this regard:

> The Commission has determined that, in light of the numerous factors it considers in its public interest analysis, the value of increased competition, by itself, is unlikely to satisfy the public interest test.[20]

Staff further believes the Commission should find that none of Safari's remaining arguments distinguish it any way from a number of ETCs already operating in the AT&T service territory (the area for which Safari requests ETC designation). Other wireless ETCs already provide Lifeline eligible customers the advantages Safari cites in attempting to make its public interest argument (see Attachment D). When weighed against such factors as the potential for waste, fraud and abuse (of particular and immediate concern with Safari's prepaid wireless Lifeline business model), Safari's lack of an operating history in Illinois, the recent unprecedented growth in subsidy payments to prepaid wireless carriers (and resultant burden on ratepayers generally), the Commission can and should find that Safari has not met its public interest burden of proof.

Q. Does this conclude your direct testimony?

[20] ETC Order at 44.

A. Yes.

ATTACHMENT A

Additional Requirements for "Low Income" Wireless ETC Designation

For a low income wireless ETC designation, Applicant must meet all federal and state requirements for ETCs as well as the following conditions.

1. To assist Staff and the Commission in assessing the Applicant's capabilities to provide wireless services to Illinois customers, Applicant must have a record of providing wireless services to Illinois customers throughout the requested ETC areas for a minimum of six months prior to the submission of a wireless ETC application.

2. There must be no open or pending investigation involving the Applicant's (or any affiliate of the Applicant) wireline or wireless operations in any State as of the submission date of the ETC application.

3. Applicant seeks designation as a Lifeline only ETC and acknowledges that the wireless ETC designation, if and when granted, does not authorize it to claim or collect Linkup support for wireless customers.

4. Applicant acknowledges that the wireless ETC designation, if and when granted, does not authorize the Applicant to claim or collect Lifeline support for **those** wireless customers that it serves (i.e., provides supported services) solely through resale of another carrier's services, unless the Applicant has obtained forbearance from the facilities requirement from the FCC prior to the submission of its ETC application.

5. Applicant will submit the following information regarding its requested ETC areas with its ETC application:

   A. A list of exchanges in which it seeks wireless ETC designation, including but not limited to the names of the exchanges and the names of the ILECs operating in the exchanges.

   B. A map of the requested ETC areas, which clearly identifies the service area of each ILEC operating in the Applicant's requested ETC areas.

   C. Evidence that the Applicant provides supported services to wireless customers throughout the requested ETC areas.

6. Applicant will submit, with its ETC Application, all Lifeline Enrollment Forms and Lifeline Annual Verifications Forms that it will rely upon in Illinois if and when it is designated as an eligible telecommunications carrier in Illinois and begins to offer Lifeline service in Illinois.

7. In addition to meeting all federal and State requirements for ETCs, Applicant must demonstrate that it has a record of and is currently in good standing with all other applicable laws, rules and regulations and that ETC designation is in the public interest. Upon such a showing, Applicant will receive an interim one-year ETC designation.

a. The interim one-year ETC designation may be renewed only if Applicant requests such a renewal from the Commission. If Applicant fails to timely submit such request, the ETC designation expires at the end of the interim one-year ETC period. Renewal will be granted only if Applicant demonstrates full compliance with all laws, rules and regulations, including but not limited to all federal and State requirements for ETCs, during the preceding interim one-year ETC period or periods, and that the renewal of an interim one-year ETC designation is in the public interest.

b. At the end of the second interim one-year ETC period, Applicant may request continuing ETC designation with no further annual review from the Commission. Continuing designation will be granted only if Applicant demonstrates full compliance with all applicable laws, rules and regulations, including but not limited to all federal and State requirements for ETCs, for the preceding interim one-year ETC periods, and that the continuing designation is in the public interest.

c. At any time the Commission may require Applicant to demonstrate compliance with any applicable laws, rules, regulations or conditions, including but not limited to federal and State requirements for ETCs, and may, if the applicant fails to adhere to any applicable law, rule, regulation or condition, revoke the ETC designation.

8. A request for renewal of an interim one-year ETC designation or continuing ETC designation must be submitted to the Commission 30 to 60 days prior to the expiration date of the current interim ETC period. The request must contain, at minimum, the following exhibits:

   A. Copies of all reports and exhibits filed with the Clerk of the Commission as required in Condition 16 and Condition 17 below.

9. Applicant will require every Lifeline customer to complete/sign a Lifeline Enrollment Form to certify the customer's eligibility and to provide proof of eligibility at the time of the customer's initial enrollment.

   Proof of eligibility entails (i) proof of identity: evidence that the customer signing the Lifeline Enrollment Form is the person named, and does reside at the address listed, on the Lifeline Enrollment Form, and (ii) proof of program participation: evidence of the customer's participation in one of the proxy programs listed in Code Part 757.10.

   Proof of identity consists of a current government issued ID with photo, name and address (e.g., driver's license, Illinois stat**e** ID, etc.), **OR** two pieces of current identification (one must include name and address), which may include a personal check (cancelled within 30 days), a current telephone, gas, electric or cable bill (issued within 30 days), mail with a current postmark (dated within 30 days), or a voter registration card.

Proof of program participation consists of copies of dated documents issued by qualifying government agencies, such as the Department of Human Services, that contain the customer's name, address and social security number **AND** that clearly establish the customer's participation in the claimed proxy program(s) at the time of initial enrollment.

*Note: a program card (such as Illinois Link Card) is not sufficient as proof of program participation **unless** the program card shows the customer's name, residence address and date of eligibility.*

Applicant will comply with the following document retention requirements:

a. Applicant will retain all original (or scanned images of original) copies Lifeline Enrollment Forms completed/signed by every Lifeline customer at the time of initial enrollment for a minimum of three years **after** the customer terminates services with the Applicant.

b. Applicant will retain all original (or scanned images of original) copies of proof of identity (specified above) provided by every Lifeline customer at the time of initial enrollment for a minimum of three years **after** the customer terminates services with the Applicant.

c. Applicant will retain all original (or scanned images of original) copies of proof of program participation (specified above) provided by every Lifeline customer at the time of initial enrollment for a minimum of three years **after** the customer terminates services with the Applicant.

10. Applicant will verify every Lifeline customer's continued eligibility for Lifeline support every twelve (12) months. For purposes of annual verification of continued eligibility, the Applicant will require each Lifeline customer to complete/sign a Lifeline Annual Verification Form and provide proof of continued eligibility at the time of the customer's annual verification.

Proof of continued eligibility entails (i) proof of identity: evidence that the customer signing the Lifeline Annual Verification Form is the person named, and does reside at the address listed, on the Lifeline Annual Verification Form, and (ii) proof of continued program participation: evidence of the customer's continued participation at the time of annual verification in the claimed proxy program(s).

Proof of identity consists of two pieces of current identification (with name and address and date), which may include a personal check (cancelled with 30 days), a current telephone, gas, electric or cable bill (issued within 30 days), or mail with a current postmark (dated within 30 days).

Proof of continued program participation consists of copies of dated documents issued by qualifying government agencies, such as the Department of Human Services, that contain the customer's name, address and social security number

AND that clearly establish the customer's continued participation at the time of annual verification in the claimed proxy program(s).

*Note: a program card (such as Illinois Link Card) is not sufficient as proof of continued program participation **unless** the program card shows the customer's name, residence address and date of eligibility.*

Applicant will immediately cease claiming Lifeline support for those Lifeline customers that have failed to respond to annual verification requests **OR** that have responded but failed to provide all the required documentations for proof of continued eligibility as specified above.

Applicant will comply with the following document retention requirements:

a. Applicant will retain all original (or scanned images of original) copies of Lifeline Annual Verification Forms completed/signed by every Lifeline customer at the time of annual verification of the customer's continued eligibility for a minimum of three years **after** the customer terminates services with the Applicant.

b. Applicant will retain all original (or scanned images of original) copies of proof of identity (specified above) provided by every Lifeline customer at the time of annual verification of the customer's continued eligibility for a minimum of three years **after** the customer terminates services with the Applicant.

c. Applicant will retain all original (or scanned images of original) copies of proof of continued program participation (specified above) provided by every Lifeline customer at the time of annual verification of the customer's continued eligibility for a minimum of three years **after** the customer terminates services with the Applicant.

11. Applicant **must** offer to pass through Lifeline benefits through a Lifeline discount off its non-Lifeline rates for its wireless **voice** plans (i.e., the difference between the non-Lifeline rates and Lifeline rates after application of Lifeline discount must equal to the Lifeline benefits) (Option A). A Lifeline customer must be permitted to receive the Lifeline benefits through a Lifeline discount off the non-Lifeline rates of **any** wireless voice plans offered by the Applicant. *A wireless voice plan is a wireless plan that allows the customer to make and receive voice calls, with or without the text messaging functionality*.

    Applicant **may** provide a block of free minutes per month in lieu of a Lifeline discount off the non-Lifeline rates as an alternative means to pass through Lifeline benefits (Option B). In such a case, customers must be permitted to choose between Option A (i.e., receiving Lifeline benefits through a discount off the non-Lifeline rates) and Option B (i.e., receiving Lifeline benefits through a block of free minutes).

If electing to offer a block of free minutes as an optional means for customers to receive Lifeline benefits, the Applicant must, at minimum, offer a wireless voice plan containing a block of free minutes determined by the most economical wireless voice plans offered to non-Lifeline wireless customers and the carrier's claim of Lifeline support (i.e., Tier 1, Tier 1 and Tier 2, or all three Tiers). In addition, any unused free minutes in any given month will be automatically rolled over to future months.

12. Applicant will offer wireless local calling plans comparable to those of the Incumbent Local Exchange Carriers (ILECs) operating in the Applicant's ETC areas.

    a. Applicant will file a wireless Lifeline tariff pursuant to Code Part 757.420, containing (i) a list of all individual discounts, including but not limited to low income discounts, and a description of the conditions under which each individual discount applies, (ii) a list of all non-recurring and recurring charges for wireless services offered to Lifeline customers before application of low income discounts, and (iii) a list of all non-recurring and recurring charges for wireless services offered to Lifeline customers after application of low income discounts.

    b. All rates (non-recurring and recurring) in the wireless Lifeline tariff must be identical for non-Lifeline and Lifeline customers before application of low income discounts.

    c. Applicant will adhere strictly to all rates, terms and conditions of service prescribed in the wireless Lifeline tariff. Applicant will not charge its Lifeline customers any rate other than those prescribed in the wireless Lifeline tariff.

    d. Applicant will not introduce any new wireless services for Lifeline customers unless and until it has filed a wireless Lifeline tariff with the Commission that includes the new services. A new wireless service is defined as any wireless service (or calling plan) that deviates in any way (e.g., in rates or/and structure) from those specified in the current wireless Lifeline tariff on file with the Commission. Applicant must notify Staff of any planned introduction of new wireless services to Lifeline customers and demonstrate to Staff that the new services are comparable to those of the ILECs operating in the applicant's wireless ETC areas 30 days prior to the introduction of the new wireless services.

13. Applicant must provide all Lifeline customers and prospective Lifeline customers with detailed descriptions of all available wireless voice plans ("Service Descriptions"), separate from its wireless Lifeline tariff. The Service Descriptions must meet the following criteria:

    a. The Service Descriptions must be provided in a separate document or on pages separate from the Applicant's Lifeline Enrollment Form and Lifeline Annual Verification Form. It must be presented in an easy-to-read format and it must not take a customer more than a few minutes to understand all plan options.

b. The Service Descriptions must explicitly state all rates (recurring and non-recurring) before application of Lifeline discount for each of its wireless voice plans.

c. The Service Descriptions must explicitly state the amounts ($) of Lifeline discounts.

d. If the Applicant offers a block of free minutes in lieu of Lifeline discount off non-Lifeline rates, the Service Descriptions must comply with the following:

i. The Service Descriptions must clearly state that the block of free minutes is fully funded under the government-sponsored Lifeline program. It must also explicitly state the amounts ($) of Lifeline benefits that are implicitly reflected in the block of free minutes.

ii. The Service Descriptions must clearly state that customers must **pay** for the use of additional minutes beyond the block of free minutes. And it must present all plan options available to customers when and if the customers desire to purchase additional minutes.

14. Applicant must ensure that the Lifeline Enrollment (Annual Verification) Form is used **solely** for a customer to certify his eligibility at the time of initial enrollment (verify his continued eligibility at the time of annual verification).

In addition, it must be clearly stated on both the Lifeline Enrollment and Annual Verification Forms that the Lifeline program is a government-funded program, under which qualified customers may purchase phone services from the Applicant at subsidized rates.

In no circumstances will the Applicant advertise services on the Lifeline Enrollment or Lifeline Annual Verification Forms.

15. Applicant will submit, within 30 days of the end of each calendar quarter, to the Director of the Telecommunications Division the following items:

A. Copies of all completed/signed Lifeline Enrollment Forms submitted during the quarter by each Lifeline customer at the time of initial enrollment.

B. Copies of all dated official documentation provided during the quarter by each Lifeline customer at the time of initial enrollment as proof of identity and program participation consistent with the requirements specified in Code Part 757.10 and Condition 9.

C. Copies of all completed/signed Lifeline Annual Verification Forms submitted during the quarter by each Lifeline customer at the time of annual verification of the customer's continued eligibility.

D. Copies of all dated official documentation provided during the quarter by each Lifeline customer at the time of annual verification as proof of identity and continued eligibility consistent with the requirements specified in Condition 10.

E. A summary of the Applicant's annual verifications conducted during the quarter in accordance with Condition 10, including the following:

   a. The number of customers that were due for annual verification during the quarter (i.e., the number of Lifeline customers that have been enrolled in the Applicant's Lifeline program for 12 months or a multiple of 12 months).

   b. The number of customers that responded to the annual verification.

      i. The number of customers that provided all the required documentations for proof of continued eligibility as specified in Condition 10.

      ii. The number of customers that responded but failed to provide all the required documentations for proof of continued eligibility as specified in Condition 10.

   c. The number of customers that failed to respond to the annual verification request.

16. Applicant will submit, to the Director of Telecommunications Division and the Clerk of the Commission, by August 1 of each year a report summarizing the results of the Applicant's annual verification conducted in the most recent 12 month period ending July 31 in the format specified in Condition 15.E.

17. Applicant will provide quarterly reports, separately for wireline and wireless operations, pursuant to Exhibit A of Code Part 757 to the Commission, the Staff Liaison, and the Universal Telephone Assistance Corporation ("UTAC"). Additionally, Applicant will submit, in its ETC designation docket, quarterly reports to the Clerk of the Commission within 30 days of the end of each calendar quarter consisting of the following items:

    A. A Churn Rate Report as detailed in Appendix A.

    B. A Minutes of Use ("MOU") Report as detailed in Appendix B.

    C. A Subscribership Report as detailed in Appendix C.

    D. Service Descriptions as specified in Condition 13.

E. A Low Income Support Receipt Report. The Report must list the total amount of support, Projection Override *plus* true-ups, in each category (Lifeline, Toll Limitation, etc.) **for** each month of the quarter. It must also list the amounts of Projection Override and true-ups, respectively, **for** each month. *For example, if the Projection Override for March 2011 is $15,000 and the subsequent true-ups for March 2011 is $5,000, the USF support amount received for March 2011 should be $20,000* (=*$15,000 Projection Override* + *$5,000 true-ups*).

F. Documentation demonstrating that low income support received during the quarter was passed through to Lifeline customers. Such documentation includes, but not limited to, detailed descriptions of wireless **voice** plans offered to non-Lifeline customers, including (i) a list of all individual discounts offered to non-Lifeline customers and a description of the conditions under which each discount applies, (ii) a list of all non-recurring and recurring charges for wireless services offered to non-Lifeline customers before application of discounts, and (iii) a list of all non-recurring and recurring charges for wireless services offered to non-Lifeline customers after application of discounts.

G. Copies of all FCC Form 497 filings submitted to the Universal Service Administration Corporation ("USAC") during the quarter.

H. A summary of all wireless Lifeline tariff changes filed with the Commission during the quarter, including a description of each change and citations to any revised tariff pages.

I. Copies of all Lifeline Enrollment Forms that Applicant distributed to potential Lifeline customers during the quarter. Note: these should be blank forms.

J. Copies of all Lifeline Annual Verification Forms that Applicant distributed to Lifeline customers during the quarter. Note: these should be blank forms

K. Copies of all Lifeline publicity and advertising materials distributed during the quarter.

L. Copies of all written notifications provided to directors of municipal, State, and federal government agencies within the applicant's service territory.

18. Applicant will implement a non-usage policy whereby it will identify Lifeline customers that have not used its Lifeline service for 60 days, and cease to claim Lifeline support for such customers if they do not use their service within a 30-day grace period following the initial 60-day non-usage period. Specifically,

a. If no usage appears on a Lifeline customer's account during any continuous 60-day period, Applicant will promptly notify the customer that the customer is no longer eligible for the Company's Lifeline services subject to a 30-day grace period.

b. If the customer's account does not show any customer-specific activity during the 30-day grace period (such as making or receiving a voice call, sending a text message, or adding money to the account), the Company will deactivate Lifeline services (i.e., ceasing to claim Lifeline support) for that customer. *Note: Customer-specific activity does not include receiving calls or text messages from the Company or its designated agents.*

c. The Company will not seek to recover a Lifeline subsidy for the minutes provided to the customer during the 30-day grace period, or thereafter, unless the customer reinitiates service.

d. The Company will not report that customer on its FCC Form 497 for the 30-day grace period, or thereafter, unless the customer reinitiates service.

19. Applicant will offer, at minimum, 30 minutes of wireless customer service calls per Lifeline customer, per month, at no charge. After 30 minutes, regular per minute charges will apply. Notice will be given to Lifeline customers via a free text message when they have used 80% of the minutes provided by their customer service allowance.

20. Applicant will remit, or ensure the remission of, wireless 911 surcharges for all Lifeline and non-Lifeline wireless customers pursuant to the Wireless Emergency Telephone Safety Act and/or Prepaid Wireless 9-1-1 Surcharge Act. Applicant will retain record of all wireless 9-1-1 surcharges remitted for its wireless (Lifeline and non-Lifeline) customers. Applicant will demonstrate, upon request, that wireless 9-1-1 surcharges have been remitted for each and every of its wireless Lifeline and non-Lifeline customers.

21. Applicant acknowledges that it is not eligible to and may not seek Illinois supplemental low income assistance under Subpart C (Universal Telephone Service Assistance Program or UTASP) of Code Part 757 for any wireless customers.

22. Applicant acknowledges that it may not seek waiver for any sections of Code Part 736 listed in Part 736.115(b) on the ground that the Applicant offers **prepaid** wireless services, i.e.,

Section 736.505(a): Operator Answer Time;
Section 736.505(b): Business and Repair Answer Time;
Section 736.515: Dropped Calls and Signal Strength;
Section 736.520: Service Outages;
Section 736.525: Installation Requests – Failure to Provide Service;
Section 736.530: Trouble Reports.

Appendix A

Churn Rate Report. For each month of the quarter, report for Illinois wireless operation in spreadsheet format:

(a) The total number of wireless Lifeline customers in Illinois that remained with the applicant at the end of the month.

(b) The number of wireless Lifeline customers in Illinois that remained with the applicant at the end of the month but had remained with the applicant for one month or less — i.e., the number of customers identified in (a) that had remained with the applicant for one month or less.

(c) The number of wireless Lifeline customers in Illinois that remained with the applicant at the end of the month but had remained with the applicant for more than one month but less than two months — i.e., the number of customers identified in (a) that had remained with the applicant for more than one month but less than two months.

(d) The number of wireless Lifeline customers in Illinois that remained with the applicant at the end of the month but had remained with the applicant for more than two months but less than three months — i.e., the number of customers identified in (a) that had remained with the applicant for more than two months but less than three months.

(e) The number of wireless Lifeline customers in Illinois that remained with the applicant at the end of the month but had remained with the applicant for more than three months but less than six months — i.e., the number of customers identified in (a) that had remained with the applicant for more than three months but less than six months.

(f) The number of wireless Lifeline customers in Illinois that remained with the applicant at the end of the month but had remained with the applicant for more than six months but less than twelve months — i.e., the number of customers identified in (a) that had remained with the applicant for more than six months but less than twelve months.

(g) The number of wireless Lifeline customers in Illinois that remained with the applicant at the end of the month but had remained with the applicant for more than twelve months — i.e., the number of customers identified in (a) that had remained with the applicant for more than twelve months.

Appendix B

Minutes of Use (“MOU”) Report. For each month of the quarter, report for Illinois wireless operation the following information in spreadsheet format:

(a) The total Minutes of Use (MOUs) purchased by the Applicant for the month from its wireless wholesaler(s) for wireless Lifeline customers in Illinois.

(b) The total Minutes of Use (MOUs) used in aggregate by wireless Lifeline customers in Illinois during the month.

(c) The number of wireless Lifeline customers in Illinois with zero Minutes of Use (MOUs) during the month.

(d) The number of wireless Lifeline customers in Illinois with monthly Minutes of Use (MOUs) more than zero but less than or equal to 10 minutes during the month.

(e) The number of wireless Lifeline customers in Illinois with monthly Minutes of Use (MOUs) more than 10 but less than or equal to 30 minutes during the month.

(f) The number of wireless Lifeline customers in Illinois with monthly Minutes of Use (MOUs) more than 30 but less than or equal to 120 minutes during the month.

(g) The number of wireless Lifeline customers in Illinois with monthly Minutes of Use (MOUs) more than 120 minutes during the month.

Appendix C

Subscribership Report. For each month of the quarter, report for Illinois wireless operation the following information in spreadsheet format:

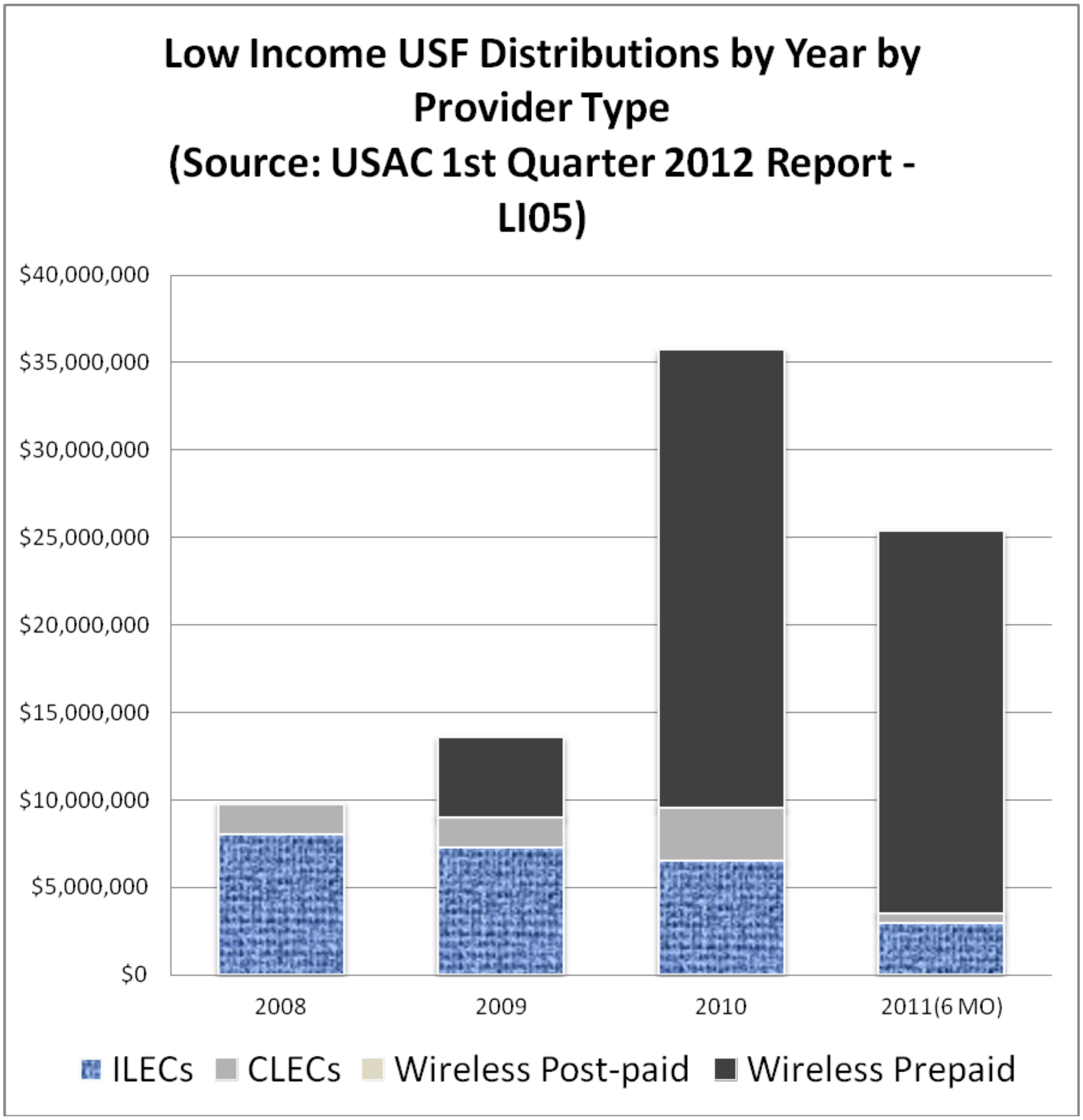
(a) Names and residence addresses (apartment # (if applicable), street address, city, state and zip code) of the Illinois wireless Lifeline subscribers that remained with the Company at the end of the month

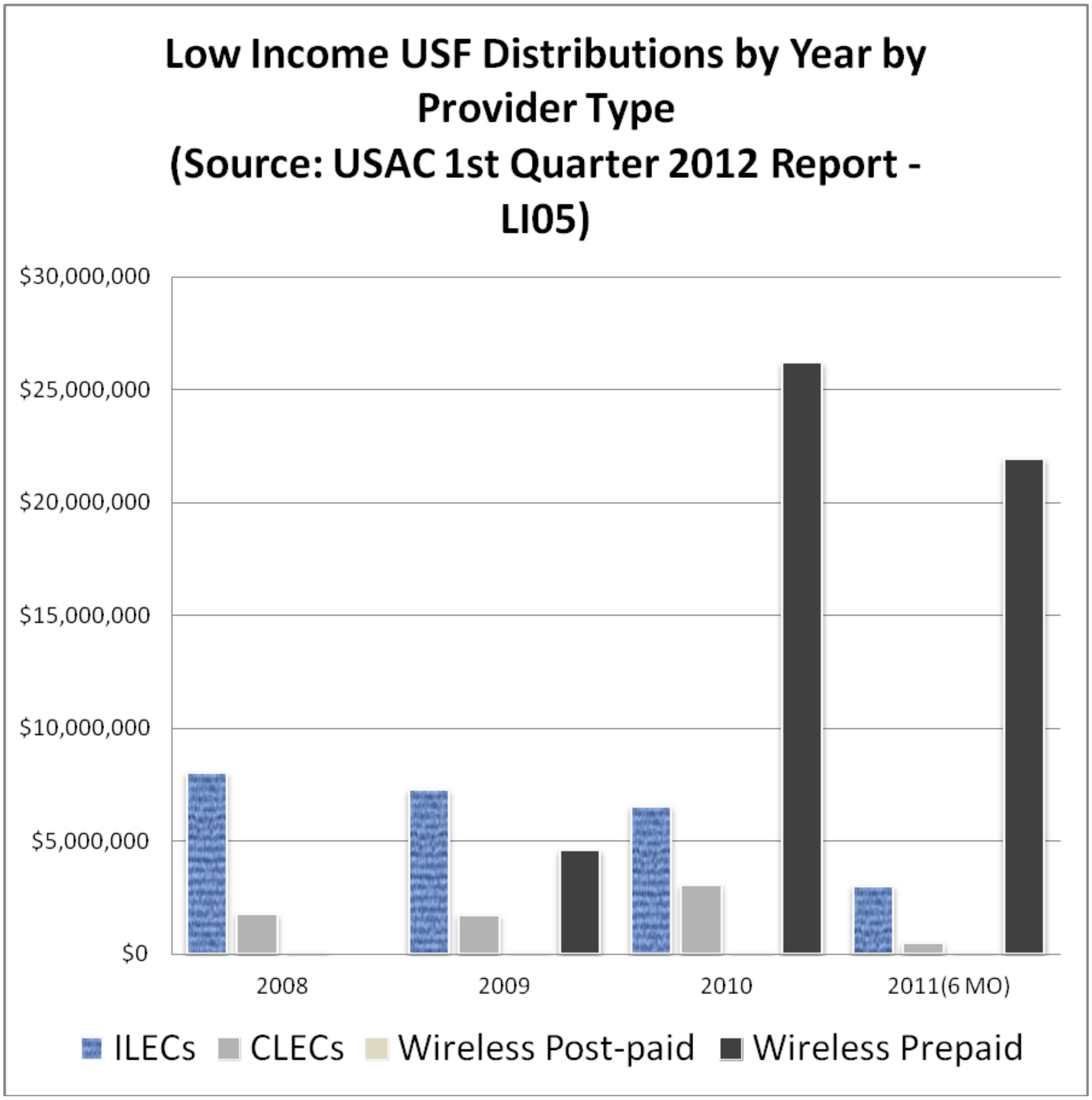
(b) The dates (date/month/year) when Lifeline customers identified in (a) commenced Lifeline service with the Applicant.

(c) The participating programs that the wireless Lifeline subscribers identified in (a) relied on to enroll in the Company's wireless Lifeline program.

(d) Phone numbers assigned to the wireless Lifeline subscribers identified in (a).

ATTACHMENT B


Low Income USF Distributions by Year by Provider Type
(Source: USAC 1st Quarter 2012 Report - LI05)
$40,000,000
$35,000,000
$30,000,000
$25,000,000
$20,000,000
$15,000,000
$10,000,000
$5,000,000
$0
2008
2009
2010
2011(6 MO)
ILECs
CLECs
Wireless Post-paid
Wireless Prepaid


Low Income USF Distributions by Year by Provider Type
(Source: USAC 1st Quarter 2012 Report - LI05)
$30,000,000
$25,000,000
$20,000,000
$15,000,000
$10,000,000
$5,000,000
$0
2008
2009
2010
2011(6 MO)
ILECs
CLECs
Wireless Post-paid
Wireless Prepaid

ATTACHMENT C

ATTACHMENT D

ETCs granted authority to operate in, or in part of, AT&T Illinois' service area (including only those carriers serving customers as of September, 2011):

- Illinois Valley Cellular RSA 2-I Partnership and Illinois Valley Cellular RSA 2-II Partnership
  - Dockets 04-0454/0455/0456 (Consolidated).
  - Granted 4/19/06
  - Granted for wireless (349008, 349009, 249010)
  - Granted for part of AT&T Illinois' service area.
  - Started receiving payments for customers served as of April, 2007

- USCOC of Illinois RSA #1, LLC, USCOC of : Illinois RSA #4, LLC, USCOC of Rockford, : LLC and USCOC of Central Illinois, LLC
  - Docket 04-0653
  - Granted 2/27/08
  - Granted for wireless (349007)
  - Granted for part of AT&T Illinois' service area.
  - Started receiving payments for customers served as of October, 2008

- Illinois Telephone Corporation
  - Docket 06-0003
  - Granted 6/28/06
  - Granted for wireline (349012)
  - Granted for all of AT&T Illinois' service area.
  - Started receiving payments for customers served as of July, 2006

- Midwestern Telecommunications, Inc.
  - Dockets 06-0038 and 10-0524
  - Granted 9/26/06 and 3/9/11
  - Granted for wireline (349013) and wireless (349027)
  - Granted for prepaid service
  - Granted for all of AT&T Illinois' service area.
  - Started receiving payments for wireline customers served as of October, 2006 and for wireless customers April, 2011

- Nexus Communications
  - Dockets 06-0381 and 09-0107
  - Granted 10/25/06 and 5/20/09
  - Granted for wireline (349015) and wireless (349019)
  - Granted for prepaid service.
  - Granted for all of AT&T Illinois' service area.
  - Started receiving payments for wireline customers served as of November, 2006 and July, 2009

- Data Net Systems, LLC
    - Docket 06-0410
    - Granted 9/13/06
    - Granted for wireline (349014)
    - Granted for all of AT&T Illinois' service area.
    - Started receiving payments for customers served as of January, 2007

- Cellular Properties, Inc.
    - Docket 07-0154
    - Granted 2/27/08
    - Granted for wireless (349011)
    - Granted for part of AT&T Illinois' service area.
    - Started receiving payments for customers served as of March, 2010

- SOS Telecom, Inc.
    - Docket 08-0275
    - Granted 7/16/08
    - Granted for wireine (349016)
    - Granted for all of AT&T Illinois' service area.
    - Started receiving payments for customers served as of August, 2008

- IQ Telecom, Inc.
    - Docket 08-0453
    - Granted 10/8/08
    - Granted for wireine (349018)
    - Granted for all of AT&T Illinois' service area.
    - Started receiving payments for customers served as of October, 2008

- Millennium 2000, Inc.
    - Docket 08-0454
    - Granted 11/13/08
    - Granted for wireine (349020)
    - Granted for all of AT&T Illinois' service area.
    - Started receiving payments for customers served as of July, 2009

- TracFone Wireless, Inc.
    - Docket 09-0213
    - Granted 9/10/09
    - Granted for wireless (349021)
    - Granted for prepaid service.
    - Granted for all of AT&T Illinois' service area.

  - Started receiving payments for customers served as of September, 2009

- PlatinumTel Communications, LLC
  - Docket 09-0269
  - Granted 11/24/09
  - Granted for wireless (349023)
  - Granted for prepaid service.
  - Granted for all of AT&T Illinois' service area.
  - Started receiving payments for customers served as of March, 2011

- YourTel America, Inc.
  - Docket 09-0606
  - Granted 3/24/10
  - Granted for wireless (349026) and wireline (349025)
  - Granted for prepaid service
  - Granted for all of AT&T Illinois' service area.
  - Started receiving payments for wireline customers served as of May, 2010 and for wireless customers as of January, 2011

- Telrite Corporation
  - Docket 10-0512
  - Granted 5/4/11
  - Granted for wireless (349030)
  - Granted for prepaid service.
  - Granted for all of AT&T Illinois' service area.
  - Started receiving payments for customers served as of May, 2011

- iWireless LLC
  - Docket 11-0073
  - Granted 4/15/11
  - Granted for wireless (349029)
  - Granted for prepaid service.
  - Granted for all of AT&T Illinois' service area.
  - Started receiving payments for customers served as of May, 2011