

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Q LINK WIRELESS LLC

**Application for Designation as a
Wireless Eligible Telecommunications
Carrier for Purposes of Receiving
Federal Universal Service Support
Pursuant to Section 214(e)(2) of the
Telecommunications Act of 1996.**

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Docket No. 12-0095

INITIAL BRIEF OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

PUBLIC

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CONFIDENTIAL

The Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned attorneys and pursuant to Section 200.800 of the Commission’s Rules of Practice, 83 Ill. Adm. Code 200.800, respectfully submit their Initial Brief in the above-noted proceeding.

I. Introduction

On February 3, 2012, Q Link Wireless LLC (“Q Link” or “Company”) filed its petition with the Commission seeking designation as an eligible telecommunications carrier under Section 214(e)(2) of the Federal Telecommunications Act of 1996 (“Original Petition”). Q Link amended its petition on December 13, 2012 (“Amended Petition”). On October 30, 2013, Staff filed ICC Staff Exhibit 1.0, the Direct Testimony of Dr. Qin Liu. On December 11, 2013, Q Link submitted the Rebuttal Testimony of Mr. Issa Asad. On February 7, 2014, Staff filed ICC Staff Exhibit 2.0, the Rebuttal Testimony of Dr. Qin Liu. On March 7, 2014, Q Link submitted Q Link Ex. 2.0 and Q Link Ex. 2.0 3.0, the Surrebuttal Testimony of Issa Asad and Chuck Campbell,

respectively. On March 18, 2014, an evidentiary hearing was conducted and a briefing schedule set.

As articulated in detail below, Q Link has failed to carry its burden of proof to demonstrate that it meets federal and state ETC requirements and that its designation in Illinois would be consistent with the public interest, convenience and necessity. Staff, accordingly, recommends that the Commission deny the Q-Link Application for ETC designation.

II. Legal Framework

A. Burden of Proof

Q Link bears the burden to provide the Commission with compelling evidence in support of its petition seeking designation as an eligible telecommunications carrier (“ETC”). The party seeking relief generally bears the burden of proof. *People v. Orth*, 124 Ill. 2d 326, 337; 530 N.E.2d 210, 216; 1988 Ill. Lexis 134 at 16; 125 Ill. Dec. 182 (1988). The term “burden of proof” includes the burden of going forward with the evidence, and the burden of persuading the trier of fact. *People v. Ziltz*, 98 Ill. 2d 38, 43; 455 N.E.2d 70, 72; 1983 Ill. Lexis 453 at 6; 74 Ill. Dec. 40 (1983). The burden of persuading the trier of fact does not shift throughout the proceeding, but remains with the party seeking relief. *Ambrose v. Thornton Twp. School Trustees*, 274 Ill. App. 3d 676, 680; 654 N.E.2d 545, 549; 1995 Ill. App. Lexis 614 at 7; 211 Ill. Dec. 83 (1st Dist 1995), *app. den.*, 164 Ill. 2d 557 (1995); *Chicago Board of Trade v. Dow Jones & Co.*, 108 Ill. App. 3d 681, 686; 439 N.E.2d 526, 530; 1982 Ill. App. Lexis 2193 at 8-9; 64 Ill. Dec. 275 (1st Dist. 1982). Because Q Link is the party petitioning for ETC status, it therefore, bears the burden of proof throughout this proceeding.

B. Federal Statutory Requirements for ETC Designation

Eligible telecommunications carriers (“ETCs”) are common carriers designated as eligible to receive federal universal service support. Services designated for support by the federal universal service fund (“supported services”) are defined in Section 54.101(a) of the Federal Communications Commission’s (“FCC’s”) rules as voice telephony services that:

[P]rovide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part. 47 C.F.R. §54.101(a).

ETCs are required by Section 54.101(b) of the FCC rules to offer supported services in order to receive federal universal service support. 47 C.F.R. §54.101(b).

Section 214(e)(2) of the Federal Telecommunications Act of 1996 (“1996 Act”) authorizes state commissions to determine the fitness for ETC designation of common carriers subject to their jurisdictions. 47 U.S.C. §214(e)(2). Sections 214(e)(1) and 214(e)(2) of 1996 Act provide statutory requirements that carriers must meet in order to be designated as ETCs and statutory requirements that state commissions must follow in making ETC designation. In particular, Sections 214(e)(1) and 214(e)(2) provide:

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. 47 U.S.C. §214(e).

Meeting the requirements of Sections 214(e)(1) and 214(e)(2) is a necessary precondition for ETC designation.

1. Requirements of Section 214(e)(1)

Section 214(e)(1) of the 1996 Act requires that an ETC provide supported services using its own facilities throughout the designated ETC service area and advertise supported services throughout the designated ETC service area. Finding that the use of their own facilities is unnecessary for Lifeline-only ETCs, the FCC granted blanket forbearance from the using-its-own-facilities requirement (or “facilities requirement”) of Section 214(e)(1) for carriers seeking designation as Lifeline-only ETCs. The FCC conditioned this grant of forbearance, in part, on its own approval of a forbearance-related compliance plan. Lifeline Reform Order (FCC 12-11) at ¶368. Thus, in order to be designated as a Lifeline-only ETC in a geographic area, a carrier

need not meet the facilities requirement of Section 214(e)(1) as long as it satisfies all requirements for the blanket forbearance imposed by the FCC.

While it is necessary, the FCC's approval of a forbearance-related compliance constitutes only a part of the requirements that are imposed upon non-facilities-based Lifeline-only ETCs by Section 214(e)(1). First, the FCC's approval (of a forbearance-related compliance plan) is not the only condition a carrier must meet in order to receive forbearance from the facilities requirement of Section 214(e)(1). The FCC also conditioned the grant of forbearance on a carrier's compliance with certain 911 requirements and, therefore, non-facilities-based Lifeline-only ETCs must, in order to comply with Section 214(e)(1), comply with the 911 requirements the FCC imposed as a condition of forbearance from the facilities requirement. Lifeline Reform Order at ¶368. Second, the carrier must meet requirements of Section 214(e)(1) that are separate and distinct from the facilities requirement. In particular, a carrier must offer and advertise supported services throughout the service area for which its designation is received.

When granting a carrier forbearance from the facilities requirement of Section 214(e)(1), the FCC makes no determination as to whether the carrier should be designated as an ETC. For example, while the FCC requires forbearance-related compliance plans to contain information on carriers' Lifeline offerings (FCC Compliance Plan Guidelines Public Notice, DA 12-314), the FCC does not determine the adequacy of the Lifeline offerings for ETC designation in states making designations pursuant to Section 214(e)(2) of the 1996 Act:

While these compliance plans contain information on each carrier's Lifeline offering, we leave it to the designating authority to determine whether or not the carrier's Lifeline offerings are sufficient to serve

consumers. Birch Communications *et al* Compliance Plan Approval Public Notice (DA-12-1286) at fn.7.

Thus, in obtaining the FCC's approval of a forbearance-related compliance plan, a carrier meets one of the requirements for the blanket forbearance from the facilities requirement provided in the Lifeline Reform Order. Approval of a forbearance-related compliance plan does not constitute compliance with, or supersede this Commission's authority to determine compliance with, any other requirements for ETC designation in Illinois.

2. Public Interest Standard of Section 214(e)(2)

Section 214(e)(2) of the 1996 Act authorizes this Commission to determine a carrier's fitness for ETC designation in Illinois. It further requires that the Commission find that an ETC designation is consistent with the "public interest, convenience, and necessity" before granting such designation. 47 U.S.C. §214(e)(2); ETC Order (FCC 05-46) at ¶40. The 1996 Act does not define these terms or establish specific criteria for the public interest determinations of ETC designation. ETC Order at ¶40; Virginia Cellular/Highland Cellular Recon. Order (FCC 12-141) at ¶11. It, however, provides state commissions with wide discretion in determining specific factors to be considered for state commissions' public interest evaluations of ETC designation. ETC Order at ¶61; Virginia Cellular/Highland Cellular Recon. Order at ¶11; *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 417–18 (5th Cir. 1999).

In its first Universal Service Fund ("USF") Order, issued not long after the 1996 Act took effect, the FCC concluded that neither the FCC nor state commissions may impose additional eligibility requirements beyond what are stated in Section 214(e)(1) of the 1996 Act ("We conclude that section 214(e)(2) does not permit the [FCC] or the

states to adopt additional criteria for designation as an eligible telecommunications carrier”). USF Order (FCC 97-157) at ¶135. This conclusion, however, did not survive the initial review by the federal courts. In *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999), the Appellate Court concluded that “the FCC erred in prohibiting the states from imposing additional eligibility requirements on carriers otherwise eligible to receive federal universal service support.” *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 418 (5th Cir. 1999). Since *Texas Office of Public Utility Counsel v. FCC*, the FCC not only has permitted state commissions to impose, but has itself imposed, additional eligibility requirements for ETC designation beyond those enumerated in Section 214(e)(1) of the 1996 Act. See, for example, ETC Order and Lifeline Reform Order. The FCC has, in rulemaking as well as in adjudication, abandoned the notion that meeting Section 214(e)(1) of the 1996 Act per se is sufficient to satisfy the public interest standards of ETC designation. Highland Cellular ETC Order (FCC 04-37) at ¶10; ETC Order at ¶42. The FCC made clear that it (and similarly state commissions) may impose additional requirements for ETC designation beyond what are prescribed in Section 214(e)(1) of the 1996 Act:

In this Report and Order, we also set forth the analytical framework the Commission will use to determine whether the public interest would be served by an applicant’s designation as an ETC. We find that, under the statute, an applicant should be designated as an ETC only where such designation serves the public interest, regardless of whether the area where designation is sought is served by a rural or non-rural carrier. ETC Order at ¶ 3.

The FCC focused on the public interest as a primary requirement and prescribed additional eligibility requirements beyond what are enumerated in Section 214(e)(1) for the determination of whether an ETC designation satisfies the public interest standards.

The FCC also recognized that the 1996 Act provides state commissions with wide discretion to determine specific criteria to be applied in state commissions' public interest determinations of ETC designation ("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"). ETC Order at ¶ 61.

The FCC again addressed the public interest standards of ETC designation in its Virginia Cellular/Highland Cellular Recon. Order; emphasizing that, because the statute is vague on how to conduct the public interest analysis, the FCC, and thus this Commission, have the discretion to decide specific factors beyond those enumerated in Section 214(e)(1) to consider for the public interest determinations of ETC designation. Virginia Cellular/Highland Cellular Recon. Order at ¶¶11-16. Moreover, the FCC noted that eligibility requirements for ETC designation evolve over time, through adjudication and rulemaking, and that the public interest analysis of ETC designation should be based on facts and circumstances specific to the applicant seeking such designation. Virginia Cellular/Highland Cellular Recon. Order at ¶¶10-12. In this regard, the FCC explained:

Consistent with its statutory authority, in the *Virginia Cellular Order* and *Highland Cellular Order*, the Commission concluded that a rigorous public interest analysis was appropriate. This decision was based on the Commission's experience with the ETC process at that time. The Commission determined that each request merited a thoughtful analysis of how a particular ETC designation would affect service in the relevant area. The Commission engaged in a fact-specific public interest analysis. It concluded that "the value of increased competition, by itself, is not sufficient to satisfy the public interest test in rural areas." The Commission evaluated the merits of designating Virginia Cellular and Highland Cellular

based on the information before it. We therefore disagree with Petitioners and find that the Commission did in fact explain its reasons for adopting a more rigorous public interest standard. Virginia Cellular/Highland Cellular Reconsideration Order at ¶12 (emphasis added).

Therefore, in order to be designated as an ETC in Illinois, a carrier must demonstrate that its designation meets the public interest standards of Section 214(e)(2) and this Commission must find that it has done so. In order to demonstrate that its designation meets the public interest standards of Section 214(e)(2), a carrier must demonstrate not only that it satisfies the requirements of Section 214(e)(1) but also that it further satisfies all additional eligibility requirements prescribed by the FCC for ETC designation under Section 214(e)(2) and all additional eligibility requirements the Commission deems appropriate and reasonable to ensure that the designation is consistent with the public interest, convenience and necessity.

3. Definition of ETC Service Area of Section 214(e)(5)

Section 214(e)(1) requires that an ETC provide supported services throughout its designated ETC service area. An ETC's "service area" in Illinois is a geographic area established by this Commission in which the ETC has universal service obligations and is eligible to receive federal universal service support. See, for example, NTCH/Cricket Forbearance Order (FCC 11-137) at ¶4. Section 214(e)(5) provides for how a service area should be defined for the purpose of ETC designation:

214(e)(5) SERVICE AREA DEFINED.--The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company. 47 U.S.C. §214(e)(5).

Section 214(e)(5) distinguishes between an area served by a non-rural incumbent local exchange carrier (“ILEC”) (“non-rural area”) and an area served by a rural ILEC (“rural area”). In a non-rural area, an ETC’s service area is the geographic area established by the Commission. In a rural area, an ETC’s service area must conform to the study area of the rural carrier unless redefined by the FCC and this Commission (“conformance requirement”). A “study area” is the geographic area served by an ILEC within a state, consisting of one or more exchanges. 47 C.F.R. §69.703(e). While redefinition is permissible, the FCC has found that a redefined rural ETC service area should not be below the wire center level (“we conclude that making designations for a portion of a rural telephone company’s wire center would be inconsistent with the public interest”). Highland Cellular ETC Order at ¶33.

In its *Virgin Mobile et al* Forbearance Order, the FCC found that the conformance requirement is unnecessary for Lifeline-only ETCs and granted forbearance from this requirement for carriers seeking designation as Lifeline-only ETCs:

We conclude that forbearing from the conformance requirement of section 214(e)(5) of the Act and section 54.207(b) of the Commission’s rules is appropriate and in the public interest for carriers seeking designation, or already designated, as Lifeline-only ETCs. For the reasons explained below, we find that all three prongs of section 10(a) are satisfied. As a result, if a commission designates a carrier as a limited, Lifeline-only ETC in part of a rural service area, that designation will not require redefinition of the rural telephone company’s service area. Because forbearance would apply only to designations for the purpose of becoming a limited ETC to participate in the Commission’s Lifeline program, we examine the conformance requirement in light of the statutory goal of providing low-income consumers with access to telecommunications services as it relates to the Commission’s Lifeline program. *Virgin Mobile et al* Forbearance Order (FCC 13-44) at ¶8.

By this forbearance, the FCC eliminated the rural vs. non-rural distinction for the purpose of defining a Lifeline-only ETC’s service area. A carrier seeking designation as

a Lifeline-only ETC in part of a rural ILEC's study area is no longer required to seek redefinition of the ILEC's service area. As a result, a Lifeline-only ETC's service area in Illinois is now, whether it serves a rural or non-rural area, the geographic area established by the Commission.

C. FCC Requirements

The 1996 Act authorizes state commissions to determine the fitness for ETC designations of carriers subject to their jurisdictions and the FCC to rule on ETC designations of carriers not subject to state jurisdictions. 47 U.S.C. §214(e)(2) and §214(e)(6). The FCC's requirements for ETC designation accordingly fall into two categories: requirements imposed on carriers seeking designation from the FCC under Section 214(e)(6) and requirements imposed on all carriers seeking designation, regardless of whether they seek designation from the FCC under Section 214(e)(6) or from state commissions under Section 214(e)(2).

1. The FCC's Eligibility Requirements for Carriers Seeking Designation under Section 214(e)(6)

The FCC's requirements for ETC designations it makes under Section 214(e)(6) are stated in Section 54.202 of its rules as well as its ETC Orders. The requirements of Section 54.202 of the FCC rules and determinations the FCC makes in its ETC Orders under Section 214(e)(6) are not binding on state commissions. For example, while similarly required to make the public interest determinations of ETC designation, state commissions are not subject to the public interest standards of Section 54.202(b) of the FCC rules or Section 214(e)(6) of the 1996 Act. Instead, state commissions must make

public interest determinations of ETC designation pursuant to Section 54.201(c) of the FCC rules and Section 214(e)(2) of the 1996 Act.

While imposing requirements on its own ETC designation through Section 54.202 of its rules and related ETC orders, the FCC recommends, but does not require, state commissions to adopt these requirements:

This Report and Order addresses the minimum requirements for a telecommunications carrier to be designated as an “eligible telecommunications carrier” or “ETC,” and thus eligible to receive federal universal service support. Specifically, consistent with the recommendations of the Federal-State Joint Board on Universal Service (Joint Board), we adopt additional mandatory requirements for ETC designation proceedings in which the Commission acts pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (the Act). In addition, as recommended by the Joint Board, we encourage states that exercise jurisdiction over ETC designations pursuant to section 214(e)(2) of the Act, to adopt these requirements when deciding whether a common carrier should be designated as an ETC. We believe that application of these additional requirements by the Commission and state commissions will allow for a more predictable ETC designation process. ETC Order at ¶1.

We encourage state commissions to require all ETC applicants over which they have jurisdiction to meet the same conditions and to conduct the same public interest analysis outlined in this Report and Order. We also encourage states to impose the annual certification and reporting requirements uniformly on all ETCs they have previously designated. ETC Order at ¶58.

Section 54.202 of the FCC rules requires that a carrier seeking designation as a Lifeline-only ETC under Section 214(e)(6) of the 1996 Act, in its application: (1) certify that it will comply with the service requirements applicable to the support that it receives; (2) demonstrate its ability to remain functional in emergency situations; (3) demonstrate that it will satisfy applicable consumer protection and service quality standards; (4) demonstrate that it has the financial and technical capability to provide supported service in compliance with FCC rules; and (5) submit information describing

the terms and conditions of any voice telephony plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. 47 C.F.R. §54.202(a). In addition, Section 54.202 of the FCC rules requires that, before making a designation under Section 214(e)(6) of the 1996 Act, the FCC must find that the designation is consistent with the public interest. 47 C.F.R. §54.202(b).

2. The FCC's Eligibility Requirements for All Carriers Seeking Designation

The FCC requires all carriers seeking Lifeline-only ETC designation to meet a financial and technical capability requirement:

[W]e amend Sections 54.201 and 54.202 of our rules, which govern ETC designations by states and this Commission, respectively, to require a carrier seeking designation as a Lifeline-only ETC to demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with all of the low-income program rules. Lifeline Reform Order at ¶387.

State commissions are prohibited from designating carriers as Lifeline-only ETCs under Section 214(e)(2) of the 1996 Act unless the carriers have made such a showing to the state commissions under Section 54.201(h) of the FCC rules:

A state commission shall not designate a common carrier as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part unless the carrier seeking such designation has demonstrated that it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E of this part. 47 C.F.R. §54.201(h).

Thus, in order to be designated as a Lifeline-only ETC in Illinois, a carrier must demonstrate to this Commission under Section 54.201(h) of the FCC rules that it possesses the necessary financial and technical capabilities to provide the supported service for which it seeks designation and the Commission must find that it has done so.

In its 2005 ETC Order, the FCC declined to adopt such a requirement for ETC designation and decided at the time that other existing rules would be sufficient to ensure a carrier's financial and technical capability. ETC Order at ¶¶37-39; Lifeline Reform Order at ¶387. The FCC has since changed its position but only with respect to carriers seeking designation as Lifeline-only ETCs:

Given recent growth in the number of companies obtaining ETC designation, we now conclude that it is appropriate to update our rules for federally-designated ETCs and extend the requirement to all ETCs to ensure that Lifeline-only ETCs have the financial and technical ability to offer Lifeline-supported services. Therefore, in order to ensure Lifeline-only ETCs, whether designated by the Commission or the states, are financially and technically capable of providing Lifeline services, we now include an explicit requirement in section 54.202 that a common carrier seeking to be designated as a Lifeline-only ETC demonstrate its technical and financial capacity to provide the supported service. Lifeline Reform Order at ¶388.

In requiring the showing of its financial and technical capability to provide services for which an applicant seeks designation as a Lifeline-only ETC, the FCC cited the growth in the number of ETCs as well as the Indiana Commission's point that "companies that have made a business case to serve a certain market in a state prior to receiving Lifeline subsidies may be less inclined to risk being cited for non-compliance with the program." Lifeline Reform Order at ¶387 and fn. 1010; Comments of Indiana Utility Regulatory Commission regarding the Lifeline and Link Up NPRM (April 21, 2011)(WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109) at 15-16. The FCC also referred to T-Mobile's point that "Lifeline ETC applicants should be required to make showings of financial and technical capability to provide the supported services (including consideration of whether the carrier offers services in addition to Lifeline service) in order to be designated as Lifeline ETCs" to ensure that Lifeline services are

provided by carriers with sufficient incentives to comply with all applicable rules. Lifeline Reform Order at ¶388 and fn. 1013. Therefore, the financial and technical capability requirement the FCC imposed on carriers seeking designation as Lifeline-only ETCs was intended to strengthen protections against waste, fraud and abuse by filtering out carriers that have not made a business case and are therefore more likely to commit waste, fraud and abuse of the federal low-income program.

The FCC prescribed a framework for this Commission to perform financial and technical capability evaluations under Section 54.201(h) of the FCC rules:

Among the relevant considerations for such a showing would be whether the applicant previously offered services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state. Lifeline Reform Order at ¶388.

The FCC referred to these considerations as among the relevant considerations, rather than the exclusive relevant considerations, for the Commission's financial and technical capability evaluations. Therefore, under the FCC's guidelines, the Commission may introduce additional considerations it deems appropriate and reasonable for the Commission's Section 54.201(h) evaluations.

3. FCC Requirements for ETCs After Designation

Similar to the FCC's requirements for ETC designation, the FCC's requirements for carriers after designation also fall into two categories: requirements imposed on ETCs designated by the FCC under Section 214(e)(6) and requirements imposed on all ETCs regardless of whether they are designated by the FCC under Section 214(e)(6) or by state commissions under Section 214(e)(2).

The FCC also imposes additional requirements on ETCs designated under Section 214(e)(6) of the 1996 Act through Section 54.22(b) of its rules as well as its ETC Orders. The additional reporting requirements enumerated in Section 54.22(b) of the FCC rules, which the FCC does not require but recommends that state commissions adopt, were set forth in its 2005 ETC Order and revised in its Lifeline Reform Order. 47 C.F.R. §54.422(b); ETC Order at ¶¶68-72; and Lifeline Reform Order at ¶389.

Apart from rules it imposes on ETCs designated under Section 214(e)(6) of the 1996 Act, the FCC also imposes rules of general applicability on all ETCs regardless of whether they are designated by the FCC or state commissions. Specifically, to further strengthen protections against waste, fraud and abuse of the federal low income program, the FCC imposes requirements through Subpart E of Part 54 of its rules on federally- and state-designated ETCs for the provision of Lifeline services. Among the generally applicable FCC low income support rules are the requirements of passing through the full amount of support (§54.403), the National Lifeline Accountability Database procedures for detection and prevention of duplicative support (§54.404), marketing and disclosure requirements and de-enrollment requirements (§54.405), subscriber eligibility determination and annual recertification requirements (§54.410), carrier annual certification requirements (Section 54.416), and carrier annual reporting requirements (§54.422(a)). Lifeline Reform Order; 47 C.F.R. §54.Subpart E.

D. Standards and Requirements for ETC Designation in Illinois

The Commission has found that the FCC's requirements for ETC designations it makes under Section 214(e)(6) of the 1996 Act provide appropriate minimum guidelines for this Commission's evaluations of ETC designation in Illinois under Section 214(e)(2)

of the 1996 Act. See, for example, Cellular Properties ETC Order (Docket No. 07-0154) at 10; IVC ETC Order (Docket Nos. 04-0454/04-0455/04-0456 (cons.)) at 14. The FCC's requirements for ETC designations it makes under Section 214(e)(6), however, evolve over time, through ETC designation proceedings and rulemakings. See, for example, USF Order; Cello Partnership ETC Order (DA 00-2895); Virginia Cellular ETC Order (FCC 03-338); Highland Cellular ETC Order; ETC Order; Tracfone Forbearance Order (FCC 05-165); and Virginia Cellular/Highland Cellular Recon. Order. Thus, the FCC's requirements this Commission has found to be appropriate minimum guidelines have been evolving over time.

Moreover, the FCC's requirements that state commissions must follow in making ETC designations under Section 214(e)(2) also evolve over time. For example, prior to the FCC's USF/ICC Transformation Order (FCC 11-161), in order to be designated as an ETC, a carrier was required to be able to provide each of the nine supported services enumerated in Section 54.201(a) of the then FCC rules. The FCC amended its designation of supported services in its USF/ICC Transformation Order. Since then, in order to be designated as an ETC, a carrier need not demonstrate its ability to provide each of the nine services previously designated as supported services, but instead, the carrier need demonstrate its ability to provide, throughout its proposed ETC service area, voice telephony services. U.S.C. §214(e)(1), 47 C.F.R. §54.101(a); Appendix A (Final Rules), USF/ICC Transformation Order; Appendix A (Final Rules), Lifeline Reform Order; 47. As another example, the FCC did not consider it necessary to impose a financial and technical capability requirement on ETC designation in its 2005 ETC Order; and it did not impose such a requirement on any ETC designation, state or

federal, Lifeline-only or otherwise, prior to its Lifeline Reform Order. ETC Order at ¶¶37-39; Lifeline Reform Order at ¶387. The FCC has since altered its position; now considers such a requirement necessary for Lifeline-only ETC designation; and has accordingly imposed it through Section 54.202(a)(4) of its rules on Lifeline-only ETC designations it makes under Section 214(e)(6) and through Section 54.201(h) of its rules on Lifeline-only ETC designations state commissions make under Section 214(e)(2). 47 C.F.R. §54.202(a); 47 C.F.R. §54.201(h); Lifeline Reform Order at ¶¶387-388 and Appendix A (Final Rules). Thus, the FCC's requirements for ETC designation this Commission must apply to this Commission's ETC designations in Illinois under Section 214(e)(2) of the 1996 Act also evolve over time.

Furthermore, as noted earlier, the Appellate Court has concluded that state commissions have the authority under Section 214(e)(2) of the 1996 Act to impose their own eligibility requirements on ETC designations. *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 418 (5th Cir. 1999). Therefore, this Commission may impose additional requirements it deems appropriate, reasonable and necessary to ensure the designation is consistent with the public interest, convenience and necessity in Illinois.

III. Argument

A. ETC Designations Should Be Case by Case Determinations

In Staff's opinion, the Commission should strive for uniformity in making ETC designations. Staff Ex. 1.0 at 16-17. The Commission, however, should not sacrifice the public interest in order to maintain uniformity. Lifeline-only ETC designation grants carriers access to federal Lifeline subsidies. Over time the FCC and state commissions, including this Commission, have increasingly become aware of the potential for waste,

fraud and abuse of the federal low income program. See, for example, Julian Hattem, "FCC warns companies not to skip income check for 'Obama phones,'" *the Hill*, <http://thehill.com/blogs/regwatch/technology/309573-fcc-warns-telecoms-companies-about-obama-phones>; Lifeline Clarification Order (DA 13-1441) at fn.2; Staff Report and Commission Initiating Order, MTI Investigation Proceeding (Docket No. 12-0021); Staff Ex. 1.0 at 15 and fn. 29. For example, under the FCC's one-per-household rules, in order to qualify for Lifeline service, "a consumer must not already be receiving a Lifeline service, and there must not be anyone else in the subscriber's household subscribed to a Lifeline service." 47 C.F.R. §54.409(c). Nonetheless, some Lifeline subscribers obtained as many as, and in some cases more than, 10 Lifeline-supported phone services and, at times, multiple Lifeline-supported phone services from the same ETC. See, for example, FCC Citation Orders against the following consumers: W. Brown (DA 13-195), J. Harris (DA 13-196), R. Taylor (DA 13-197), E. Branch (DA 13-203), M. Jackson (DA 13-204), D. Washington (DA 13-205), L. Robinson (DA 13-206), T. Hill (DA 13-207), G. Harding (DA 13-208), and D. Jackson (DA 13-209). For instance, W. Brown obtained 11 Lifeline-subsidized wireless phone services from 2 ETCs and R. Taylor obtained 11 Lifeline-subsidized wireless phone services from 3 ETCs. Brown Citation Order (DA 13-195); Taylor Citation Order (DA 13-197). Customers involved in the FCC's recent citations are prepaid wireless customers and obtained multiple prepaid wireless Lifeline services (i.e., free phone services). Under the FCC's one-per-household rules, carriers are clearly prohibited from providing more than one Lifeline supported phone service to an individual customer. Nonetheless, some ETCs have provided more than one Lifeline-subsidized phone service to individual customers and

claimed more than one Lifeline subsidy for individual customers. See, for example, TerraCom Consent Decree Order (DA 13-285); YourTel Consent Decree Order (DA 13-286); Notices of Apparent Liability for Forfeiture (“NALs”) for willful violations of Lifeline rules against Easy Telephone Services d/b/a Easy Wireless (FCC 13-129), Icon Telecom (FCC 13-130), Assist Wireless (FCC 13-131), UTPhone (FCC 13-132), Tracfone Wireless (FCC 13-133), Connexions d/b/a Connexion Wireless (FCC 13-145), i-Wireless (FCC 13-148), True Wireless (FCC 13-149), Telrite Corporation d/b/a Life Wireless (FCC 13-154), Global Connection Inc. of America d/b/a Stand Up Wireless (FCC 13-155), Cintex Wireless (FCC 13-156) and Budget Prepay d/b/a Budget Mobile (FCC 14-19). Notably, all the twelve ETCs against which the FCC has recently issued NALs provide prepaid wireless services.

Experience has also shown that verifying ongoing compliance by ETCs can be difficult. See, for example, Staff Report and Commission Initiating Order, MTI Investigation Proceeding (Docket No. 12-0021). To strengthen protections against waste, fraud and abuse, it is imperative for the Commission to subject ETC applicants to a rigorous upfront vetting process to ensure that the applicants have the ability to provide services for which they seek designation before making such designations. The Commission should not, when faced with the potential for waste, fraud and abuse, decline to examine any aspect of an ETC application or decline to impose any requirement on an applicant as a condition of eligibility because it did not do so in the past. Consistent with Section 214(e)(2) of the 1996 Act and the Lifeline Reform Order, the Commission has the authority to impose additional, increasingly stringent standards on new ETC applicants, and should do so if additional information becomes available

and apparent and argues for more stringent standards to protect the public interest. 47 U.S.C. §214(e)(2); ETC Order at ¶ 61; *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999).

Lifeline support is not a form of corporate welfare and the targeted beneficiaries are low income consumers, not carriers serving them. In particular, Lifeline support is intended to help low income consumers to defray the costs of telephone services by providing a discount off the monthly charges for their telephone services. Accordingly, the Commission's evaluation of an ETC application should include a consideration of the benefits the designation will produce for consumers in Illinois. The extent of such benefits to consumers (and thus the public interest benefits) resulting from an additional ETC designation can vary widely from trivial to significant, depending on the number and capability of carriers already designated and the capability of the carrier seeking designation. For example, all else equal, the benefits to consumers from an additional designation are generally greater when there are few carriers already designated than when there are numerous carriers already designated. Therefore, the Commission should make public interest benefit assessments of ETC applications on a case-by-case basis and based upon circumstances and facts presented by and specific to the carrier seeking designation, which can change with each additional ETC designation.

As noted earlier, the FCC's requirements for ETC designations it performs under Section 214(e)(6) evolve over time, through ETC designation proceedings as well as rulemakings. Staff's assessment of, and recommendation for, appropriate standards in Illinois is also an ongoing process. The FCC recently amended its rules; waste, fraud and abuse of the federal low income program, in particular, by prepaid wireless ETCs

and customers of prepaid wireless ETCs, have come to the forefront in recent years; and Staff has been accumulating experience with prepaid wireless ETCs and prepaid wireless ETC applicants. As a result of all factors, including these, Staff has identified and proposed standards and requirements for ETC designations in Illinois that were not applied to ETC designations in Illinois prior to the Budget Prepay ETC proceeding (Docket No. 12-0423). These changes are a direct response to the changing facts and circumstances referred to above.

Tailoring evaluation criteria to individual cases does not mean that, in a future ETC designation proceeding, the Commission should start from scratch in evaluating the ETC petition. Instead, it means that the Commission should consider all information available at the time when it evaluates the ETC petition. If available information argues for additional requirements, the Commission should impose additional requirements. An individual, case-by-case approach does not necessarily result in different sets of standards being applied to different ETC designation proceedings. It means that each individual case warrants individual consideration and there should not be a presumption of a “one size fits all” set of standards for ETC designations in Illinois.

B. Compliance Plan Approval Does Not Substitute for ETC Designation

Section 214(e)(1) of the 1996 Act requires that an ETC provide supported services using its own facilities throughout its designated area. 47 U.S.C. §214(e)(1). As noted above, in its Lifeline Reform Order, the FCC granted blanket forbearance from the facilities requirement for Lifeline-only ETCs, conditioned, in part, on its (FCC’s) approval of a forbearance related compliance plan. Lifeline Reform Order at ¶368. The FCC approved Q Link’s Compliance Plan on August 8, 2012. FCC Compliance Plan

Approval Public Notice (DA 12-1286). Q Link thus obtained FCC relief from the facilities requirement of Section 214(e)(1). However, forbearance from the facilities requirement is not tantamount to, and does not substitute for, an ETC designation. The FCC has made this clear. In approving Q Link's Compliance Plan, the FCC stated: "the [FCC] has not acted on any pending ETC petitions filed [with the FCC] by these carriers, and the Public Notice only approves the compliance plans of [Birch Communications, Inc.; Boomerang Wireless, LLC; IM Telecom, LLC; Q Link Wireless, LLC; and TAG Mobile, LLC]" (emphasis added). *Id.* at fn. 7.

The requirement to provide services using one's own facilities is only one of the statutory requirements that must be met in order for the FCC and state commissions to designate carriers as ETCs under the 1996 Act. While it has approved Q Link's Compliance Plan, the FCC has not approved Q Link's petition for ETC designation before the FCC itself under Section 214(e)(6) in Alabama, Connecticut, Delaware, Florida, New Hampshire, New York, North Carolina, Tennessee, the Commonwealth of Virginia, and the District of Columbia. Q Link's Petition for Limited Designation as an Eligible Telecommunications Carrier, WC Docket No. 09-197 (last revised on March 25, 2013). The fact that the FCC has approved Q Link's Compliance Plan, but has not, nearly two years after such approval, designated it as an ETC in the ten states listed above makes clear that approval of a forbearance-related compliance plan does not signify that ETC designation is automatically warranted.

In addition, approval of its Compliance Plan does not mean that Q Link complies with any other ETC eligibility requirements. For example, Q Link's Compliance Plan includes its own description of its financial and technical capability, but the FCC has not

determined that Q Link satisfies Section 54.202(a)(4), let alone Section 54.201(h), of the FCC rules. The FCC has indicated that among the considerations it finds relevant in assessing an ETC applicant's financial and technical capability is whether the applicant has previously offered services to non-Lifeline consumers. Q Link's Compliance Plan (dated July 30, 2012) states "Q Link intends to launch its retail [non-Lifeline] and Lifeline wireless service simultaneously." Q Link Compliance Plan at 22. Notably, Q Link did not assert, let alone provide evidence, in its Compliance Plan that it had previously provided services to non-Lifeline consumers. Thus, Q Link did not prove its financial and technical competence, and the FCC did not find Q Link's description of its financial and technical qualification to be sufficient evidence that it meets Section 54.201(h) of the FCC rules in Illinois. Most importantly, whether Q Link meets financial and technical requirements for designation is, pursuant to FCC rules, a decision for this Commission, not the FCC, to make. 47 C.F.R. §54.201(h).

Therefore, approval of a forbearance-related compliance plan is necessary, but not sufficient, for the Commission to designate a reseller (i.e., non-facilities based carrier) as an ETC, and it falls upon this Commission to determine whether requirements other than the facilities requirement have been met.

C. ETC Service Areas Should Be Clearly Defined by Exchange

1. The Commission Should Define ETC Service Areas by Exchange

Section 214(e)(5) of the 1996 Act authorizes the Commission to define an ETC's service area in Illinois, which is the geographic area in which the ETC has universal service obligations and is eligible to receive federal universal service support. 47 U.S.C. §214(e)(5); 47 C.F.R. §54.207. The Commission should adopt an exchange

based ETC service area definition and require Q Link to identify its proposed ETC service area in terms of exchanges. Staff Ex. 1.0 at 18-20; Staff Ex. 2.0 at 2-3.

The Commission, in its Ameritech Illinois ETC Designation Order (Docket No. 97-0507), determined that the minimum geographic area Ameritech Illinois must serve to receive designation is an exchange and defined Ameritech Illinois' ETC service area in terms of exchanges.¹ Staff Ex. 1.0 at 18-19 and fn. 32. The Commission has also, in its more recent decisions, approved ETC Petitions of prepaid wireless carriers that relied upon exchange based ETC service area definitions. In Docket No. 09-0605, the Commission approved the Petition of YourTel America, Inc. ("YourTel") which identified its proposed ETC service area by exchange. YourTel ETC Order (Docket No. 09-0605); Exhibit B to YourTel Petition. In Docket No. 10-0512, the Commission approved the Petition of Telrite Corporation d/b/a Life Wireless ("Telrite") which identified its proposed ETC service area by exchange. Telrite ETC Order (Docket No. 10-0512); Exhibit B to Telrite Amended Petition. In its most recent ETC designation decision, the Commission approved the Petition of American Broadband and Telecommunications Company ("American Broadband"), which identified, per condition of Joint Stipulation with Commission Staff, its proposed ETC service area in terms of exchanges. American Broadband ETC Order (Docket No. 12-0680); Item n., Other Revisions to Petition, Agreed Joint Stipulation of the Staff of the Illinois Commerce Commission and Petitioner; Exhibit B to American Broadband Amended Petition.

In past years, the Commission also approved Petitions of carriers that relied upon non-exchange based ETC service area definitions. For example, in Docket No.

¹ An exchange is also known as "rate exchange area" or "rate center." Staff Ex. 1.0 at 18.

09-0107, the Commission approved the Petition of Delta Communications LLC d/b/a Clearwave Communications (“Delta Communications”), which relied upon ILEC wire center based ETC service area definition and identified its proposed ETC service area in terms of ILEC wire centers; in Docket No. 11-0073, the Commission approved the Petition of i-wireless LLC d/b/a K-Wireless LLC (“i-wireless”) which relied upon ZIP code based or some variation of ZIP code based ETC service area definition and identified its proposed ETC service area by ZIP codes and other information. Delta Communications ETC Order (Docket No. 09-0107); Appendix B to Delta Communications Petition; i-wireless ETC Order (Docket No. 11-0073); Exhibit A to i-wireless Amended Petition.

While the Commission has, in the past, relied upon both exchange based and non-exchange based ETC service area definitions, there are advantages to defining ETC service areas in terms of exchanges as opposed to alternative definitions such as wire centers and ZIP codes, which render exchange-based definitions most reasonable and appropriate. Exchanges constitute telecommunications industry standard geographic units that all carriers, not just ILECs, rely upon; e.g., telephone number blocks are assigned to carriers of all types (ILEC, CLEC, wireless, etc.) by exchange. Staff Ex. 1.0 at 19-20. More importantly, the Commission retains control over exchange boundaries, in particular, over proposed changes to exchange boundaries. 83 Ill. Adm. Code 732.711. A wire center, in contrast, is an area defined by the reach of a carrier’s switch; it is both carrier specific and subject to change without Commission notice or approval based upon the carrier’s operating needs. Similarly, ZIP codes are assigned by the United States Postal Service (“USPS”); ZIP codes and thus ZIP code area boundaries are subject to changes based upon USPS’ operating needs, needless to

say, without notice to or approval by this Commission.² In short, both wire center boundaries and ZIP code area boundaries change over time and do so without notice to or approval by this Commission. As a result, defining an ETC's service area in terms of exchanges, as opposed to alternative definitions such as wire centers and ZIP codes, allows the Commission not only more certainty as to the actual geographical area included within the ETC's service area, but also control over any proposed change to such ETC service area.

While Staff recognizes that the Commission has, in the past, relied upon both exchange based ETC service area definitions and non-exchange based ETC service area definitions, Staff maintains that: (1) identifying each ETC's service area; (2) identifying what customers are included in such area; and (3) ensuring that each ETC not only can, but does offer supported service throughout these ETC service areas have proven to be difficult when ETC service areas are not precisely defined (e.g., due to changes to the boundaries of wire centers or ZIP code areas, which occur over time and do so without notice to and approval by this Commission). Relying upon exchanges to identify ETC service areas, for the reasons stated above, provides such needed precision. Therefore, the Commission should define Q Link's ETC service area by exchange and require Q Link to identify its proposed ETC service area in accordance with this definition.

Q Link provided a list of ILEC wire center CLLI codes along with 4-columns of other information in its Surrebuttal Testimony. Q Link Ex. 2.1. In support of its position

² http://about.usps.com/publications/pub100/pub100_029.htm (accessed March 25, 2014). <http://faq.usps.com/adaptivedesktop/faq.jsp?ef=USPSFAQ&search=zip%20code&searchProperties=type%3anatural&naturalAdvance=false&varset%28source%29=sourceType%3asearch> (accessed March 25, 2014).

in its Surrebuttal Testimony that the Commission should permit it to identify its proposed ETC service area by ILEC wire center, Q Link asserted that “the exchange areas correspond to wireline services that were established to fit a wireline rate design,” thus implying that exchanges are specific to wireline carriers. Q Link Ex. 2.0 at 9. This is incorrect. Exchanges are standard telecommunications geographic units all carriers rely upon; e.g., telephone number blocks are assigned to carriers of all types (ILEC, CLEC, wireless, etc.) by exchange. Staff Ex. 1.0 at 19-20. In contrast, the wire centers Q Link identified in this proceeding are wire centers of incumbent wireline carriers and “correspond to” wireline services of the incumbent wireline carriers in Illinois, which are both specific to the incumbent wireline carriers and subject to changes based upon the incumbent wireline carriers’ operating needs, without notice to or approval by this Commission. Exhibit 6 to Amended Petition; Q Link Ex. 1.2; Q Link Ex. 2.1.

In support of its position that the Commission should permit it to identify its proposed ETC service area by ILEC wire centers, Q Link claimed that the Commission’s 1997 Ameritech ETC Order has no bearing on a wireless ETC designation and that the ILEC wire centers it identified are more appropriate for wireless ETC designation. Q Link Ex. 2.0 at 5; Q Link Ex. 2.1. This is incorrect. The Commission’s 1997 Ameritech ETC Order is not the only ETC designation decision in which the Commission approved the petition of a carrier that relied upon an exchange based ETC service area definition. As noted earlier, this Commission also, in more recent years, approved at least three ETC petitions of prepaid wireless carriers that relied upon exchange based ETC service area definitions and identified the proposed ETC service area by exchange, including the Commission’s most recent ETC designation decision in Docket No. 12-0680

(American Broadband). Moreover, as noted above, exchanges are standard telecommunications geographic units all carriers, not just wireline carriers, rely upon. In contrast, wire centers of an ILEC are specific to the ILEC and subject to changes based upon the ILEC's operating needs. There is no basis for the claim that a standard telecommunications geographic unit (i.e., exchange) is somehow less appropriate and less reasonable for a wireless ETC designation than a geographic unit (i.e., ILEC wire center) that is specific to individual incumbent wireline carriers (and subject to change over time without notice to or approval by this Commission).

In support of its position in its Surrebuttal Testimony that the Commission should permit it to identify its proposed ETC service area by ILEC wire center, Q Link erroneously claimed that "the FCC's rural ETC service area analysis require[s] an ETC petitioner to identify proposed ETC service areas by wire center." Q Link Ex. 2.0 at 4. In making this erroneous claim, Q Link cited numerous FCC Orders, but none supports such claim. Q Link Ex. 2.0 at fn. 11-13; Highland Cellular ETC Order at ¶33; ETC Order at ¶77; Standing Rock Order (DA 10-1601) at ¶¶25-26 and fn. 64; Standing Rock Recon. Order (FCC 11-102) at ¶8 and fn. 22. Contrary to Q Link's assertion, the FCC's rural ETC service area analysis in the Highland Cellular ETC Order does not require an ETC petitioner to identify its proposed ETC service area by wire center. What the FCC concluded in its rural ETC service area analysis in the Highland Cellular ETC Order is:

Although the Wireline Competition Bureau previously designated an ETC for portions of a rural telephone company's wire center, we conclude that making designations for a portion of a rural telephone company's wire center would be inconsistent with the public interest. Highland Cellular ETC Order at ¶33.

That is, the fundamental conclusion of the FCC's rural ETC service area analysis in the Highland Cellular ETC Order is that designation in a rural area should not be made below the rural telephone company's wire center level. Consistent with this conclusion of its rural ETC service area analysis, the FCC found, in the Highland Cellular ETC Order, that "[a] rural telephone company's wire center is an [not the exclusive] appropriate minimum geographic area for ETC designation" (emphasis added) in a rural area. Highland Cellular ETC Order at ¶33. In its 2005 ETC Order, the FCC recited the rural ETC service area analysis it performed in the Highland Cellular ETC Order and reiterated the conclusion of its analysis ("designating an ETC for only a portion of a wire center served by a rural incumbent LEC would be inconsistent with the public interest"). ETC Order at ¶77. In both its Standing Rock ETC Order and Standing Rock Recon. Order, the FCC reiterated the conclusion of its rural ETC service area analysis performed in the Highland Cellular ETC Order: "[i]n the Highland Cellular Order, the [FCC] held that 'a rural telephone company's wire center is an [not the exclusive] appropriate minimum geographic area for ETC designation'" (emphasis added). Standing Rock Order at fn. 64; Standing Rock Recon. Order at fn. 22.

Moreover, the FCC Orders cited by Q Link address issues related to ETC designations the FCC made and makes under Section 214(e)(6) of the 1996 Act; they are not binding on the Commission. As noted earlier, Section 214(e)(5) of the 1996 Act distinguishes between non-rural and rural areas. For a non-rural area, the 1996 Act authorizes this Commission to define an ETC's service area in Illinois; for a rural area, an ETC's service area in Illinois must conform to the Study Area of the rural telephone company. 47 U.S.C. §214(e)(5). As explained earlier, the FCC issued blanket

forbearance from the conformation requirement for Lifeline-only ETCs, thereby eliminating the non-rural vs. rural distinction for the purpose of defining a Lifeline-only ETC's service area in Illinois. *Virgin Mobile et al* Forbearance Order at ¶8. As a result, it falls on this Commission, not the FCC, to determine the appropriate ETC service area definition in this proceeding. That the FCC considered a rural telephone company's wire center to be an appropriate minimum geographic unit in a rural area and adopted a rural telephone company wire center based ETC service area definition in a rural area for its own ETC designation under Section 214(e)(6) does not alter the fact that it is this Commission, not the FCC, that determines, pursuant to Section 214(e)(5), how to define Q Link's ETC service area; nor does it limit, in any way, this Commission's authority to determine how to define Q Link's ETC service area in this proceeding.

In support of its argument against Staff's position that the Commission should rely upon exchange based ETC service area definition, Q Link cited this Commission's Orders granting the ETC Petitions of Cricket Communications, Inc. ("Cricket"), Telrite and i-wireless. Q Link Ex. 2.0 at 3 and fn. 8. In particular, it pointed to the fact that the Commission took note of the FCC's view on redefinition of rural study area ("For service areas served by a rural incumbent local exchange company ('ILEC'), Section 214(c)(5) of the Federal Act and 47 CFR §54.207 define the term 'service area' to be a rural telephone company's 'study area' unless and until the [FCC] and the States[.] ... With respect to 'service area' definitions, the FCC, which along with the Commission must approve any service area redefinition, has declared that it [FCC] will 'rigorously apply' a standard whereby the wire center is the appropriate minimum geographic area for ETC designation"). Telrite ETC Order at 4; i-wireless ETC Order at 5; Cricket ETC Order

(Docket No. 10-453) at 5-6. What Q Link omitted is the fact that the Commission, on the very same paragraphs of the Telrite and i-wireless ETC Orders, also took note of the fact that Section 214(e)(5) of the 1996 Act and Section 54.207 of the FCC rules authorize this Commission to define an ETC's service area in Illinois and the fact that this Commission, in its Ameritech Illinois ETC Order, relied upon exchange based ETC service area definition and found that the minimum geographic area Ameritech Illinois must serve in order to receive designation is an exchange. Telrite ETC Order at 4; i-wireless ETC Order at 5.

Staff's position that the Commission should rely upon an exchange based ETC service area definition in both non-rural and rural portions of Q Link's proposed ETC service area is consistent with the FCC's rural ETC service area analysis performed in its Highland Cellular ETC Order and reiterated in its ETC Order. Staff Ex. 1.0 at 20 and fn. 34. As noted above, the fundamental conclusion of the FCC's rural ETC service area analysis in the Highland Cellular ETC Order, which the FCC reiterated in its 2005 ETC Order, is that designation in a rural area should not be made below the rural telephone company's wire center level ("making designations for a portion of a rural telephone company's wire center would be inconsistent with the public interest;" Highland Cellular ETC Order at ¶33; "designating an ETC for only a portion of a wire center served by a rural incumbent LEC would be inconsistent with the public interest;" ETC Order at ¶77). This FCC conclusion does not invalidate Staff's position that the Commission should rely upon an exchange based ETC service area definition and the Commission should not designate Q Link as an ETC in any rural area of Illinois below the exchange level.

In rural areas of Illinois, exchanges and rural telephone company wire centers have a one to one correspondence in most cases: each rural telephone company wire center serves one exchange and each exchange is served by one rural telephone company wire center. In the remaining cases in rural areas of Illinois, one exchange contains two or more rural telephone company wire centers; while each rural telephone company wire center serves one exchange, each exchange is served by two or more rural telephone company wire centers. As a result, exchange is at the rural telephone company wire center level in most cases, and above the rural telephone company wire center level in the other cases, in rural areas of Illinois. Under Staff's proposed ETC service area definition, Q Link will not be designated in any rural areas of Illinois below the exchange level and, therefore, will not be designated in any rural areas of Illinois below the rural telephone company wire center level. Therefore, Staff's position that the Commission should rely upon exchange based ETC service area definition is consistent with the FCC's rural ETC service area analysis and, in particular, with the fundamental conclusion of the FCC's analysis that designation in a rural area should not be made below a rural telephone company's wire center level.

In support of its position, Q Link also pointed to the Commission's Order in Docket No. 10-0512 granting the ETC petition of Telrite. Q Link Ex. 2.0 at 3 and fn. 8. The Commission's Telrite ETC Order, however, does not support Q Link's position. As noted above, Telrite relied upon an exchange based ETC service area definition and identified its proposed ETC service area by exchanges. The Commission's Order granting ETC status of a wireless carrier that identified its proposed ETC service area by exchanges does not invalidate Staff's position that the Commission should rely upon

an exchange based ETC service area definition and require Q Link to identify its proposed ETC service area by exchanges in this proceeding.

In support of its position, Q Link also pointed to the Commission's January 2014 Order granting USCOC of Central Illinois LLC's ("USCOC's") request to relinquish ETC status:

[I]n January 2014, the Commission looked to wire centers, not rate centers or exchanges when it examined the ETC providers' service area.

... ..

[Mr. Asad] find[s] it significant that the Commission's recent analysis [i.e. the Commission's Order in Docket No. 13-0480] relating to ETC service areas concentrated on whether ETC providers cover wire center areas, not exchanges, when it evaluated the sufficiency of an ETC service area. [Mr. Asad] do[es]n't think it can be disputed that Staff's testimony makes an argument to alter the established practice of using wire center areas for ETC service area designations. However, no current Commission rule or requirement rejects using wire center CLLI designations or zip codes for a proposed ETC service area and, frankly, no ETC applicant, including Q LINK, was provided notice of Staff's decision to impose such a requirement.

Q Link Ex. 2.0 at 3-4 and fn. 14 (emphasis added).

Contrary to its assertion, the Commission's Order in Docket No. 13-0480 has no direct bearing on this proceeding and, in particular, on how the Commission should define an ETC's service area in Illinois under Section 214(e)(5) of the 1996 Act. In Docket No. 13-0480, USCOC did not seek ETC designation under Section 214(e)(2) of the 1996 Act; instead it sought to relinquish its ETC status under Section 214(e)(4) of the 1996 Act. Under Section 214(e)(4) of the 1996 Act, the Commission "shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier" (emphasis added). 47 U.S.C. §214(e)(4). Thus, under the 1996 Act, the Commission must grant a carrier's

request to relinquish its ETC status in any area specified by the carrier if the area is currently served by at least one other ETC. The Commission “looked to wire centers” (as Q Link put it) in Docket No. 13-0480 because USCOC’s ETC service area was originally defined by wire centers and USCOC was therefore required to identify the wire centers in which it wished to relinquish ETC status under Section 214(e)(4) of the 1996 Act. In Docket No. 13-0480, the Commission did not, make any finding under Section 214(e)(5) or Section 214(e)(2) of the 1996 Act and, in particular, did not determine “the sufficiency of an ETC service area.” Instead, in Docket No. 13-0480, the Commission specifically sought to determine, pursuant to Section 214(e)(4) of the 1996 Act, whether the area identified by USCOC is currently served by at least one other ETC; the Commission reached an affirmative finding and accordingly granted USCOC’s request to relinquish its ETC status in the area specified by USCOC:

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the petition of USCOC of Central Illinois, LLC, to relinquish its ETC designation in the areas shown on Exhibit A (non-rural ILEC areas) and Exhibit B (revised - rural ILEC areas), attached to the petition, is granted. USCOC Relinquishing ETC Status Order (Docket No. 13-0480) at 4.

Therefore, the Commission’s Order granting USCOC’s request to relinquish ETC status under Section 214(e)(4) of the 1996 Act has no bearing on how this Commission should define Q Link’s ETC service area under Section 214(e)(5) of the 1996 Act.

Q Link expressed a surprise at Staff’s position (stated in Staff’s Direct Testimony) that the Commission should rely upon an exchange based ETC service area definition (“no ETC applicant, including Q Link, was provided notice of Staff’s decision to impose such a requirement [exchange-based ETC service area definition]”). Q Link Ex. 2.0 at 5. However, in addition to Staff’s Direct Testimony in this proceeding (where Staff

proposed such a requirement for Q Link), Staff has proposed the same requirement in all recent ETC proceedings, as evidenced by Staff's written testimonies, which are on the Commission's e-docket and accessible to the public. See, for example, Global Connection ETC Proceeding (Docket No. 11-0579); Millennium 2000 ETC Proceeding (Docket No. 12-0375); Tempo ETC Proceeding (Docket No. 13-0448). The claim that it did not anticipate Staff's position prior to Staff's Direct Testimony, even if true, is not a valid basis for the Commission to reject Staff's position. Q Link had been given opportunities to address deficiencies identified in Staff's Direct Testimony: Rebuttal Testimony and Surrebuttal Testimony. Accordingly, its claim that it did not anticipate Staff's position prior to Staff's Direct Testimony, even if true, is not a valid basis to reject Staff's position.

Q Link accused Staff of attempting to alter "the industry practice and the Commission's prior wireless ETC designation orders" and "the established practice." Q Link Ex. 2.0 at 5. The error of this claim is self-evident. Staff did not, in this proceeding, make any recommendation regarding any industry practice or any recommendation to reopen the record of any past Commission ETC proceeding in the attempt to alter the Commission's decision made in the past ETC proceeding. Both industry practice and the Commission's past ETC designation decisions are beyond the scope of this proceeding. Moreover, Q Link's implication that an exchange based ETC service area definition constitutes a departure from the Commission's past wireless ETC decisions is inaccurate. As noted earlier, the Commission has, in the past, relied upon both exchange based ETC service area definitions and non-exchange based ETC service area definitions; in particular, the Commission has, in recent years, approved the ETC

petitions of wireless carriers that relied upon exchange based ETC service area definitions and identified their proposed ETC service areas by exchange, including its most recent wireless ETC designation decision (Docket No. 12-0680) that approved the Petition of American Broadband which identified, per condition of Joint Stipulation with Commission Staff, its proposed ETC service area by exchange.

While Staff recognizes that the Commission has in the past relied upon both exchange based and non-exchange based ETC service area definitions, defining an ETC's service area in terms of exchanges is the most reasonable and most appropriate compared to alternative definitions such as wire center based and ZIP code based ETC service area definitions. Therefore, the Commission should rely upon an exchange based ETC service area definition in this proceeding and require Q Link to identify its proposed ETC service area by exchange.

2. Q Link Should Provide Clear and Concise Information Regarding Its Proposed ETC Service Area

Under an exchange based ETC service area definition, a carrier should identify its proposed ETC service area by exchange and provide the name of each exchange for which it seeks designation. Staff Ex. 1.0 at 18-20 and Staff Ex. 2.0 at 2-3. To ease and ensure proper identification of the exchange, the carrier should include the name of the ILEC serving the exchange. Id. This requires a carrier to submit to the Commission two pieces of information in a N x 2 table (not including header): the names of the N exchanges for which the carrier seeks designation in the first column of the table and the names of the ILECs serving the respective exchanges in the second column of the table. In an exchange-based identification, each row of the N x 2 table should represent a building block (i.e., exchange) of the proposed ETC service area. A carrier seeking

designation should provide the information and only the information specified; it should not include a column of wire centers, a column of ZIP codes, a column of NPA-NXXs or a column of any other information; nor should it identify any exchange more than once by entering it on two or more rows of the N x 2 table. Including such disparate and inconstant geographical information in the proposed ETC service area description will only, as it has done in this case, create confusion as to what area the carrier actually proposes to serve (e.g., if a carrier includes an exchange along with only one of multiple wire centers serving the exchange, it will be unclear whether the carrier proposes to serve the entire exchange or only the area that is located within both the exchange and the wire center).³ Staff Ex. 2.0 at 7-8.

3. Q Link Has Failed to Properly Identify Its Proposed ETC Service Area

Q Link has not properly identified its proposed ETC service area. Q Link did not identify, in its Amended Petition, the name of any exchange in which it seeks designation. Exhibit 6 to Amended Petition; Staff Ex. 1.0 at 39; Staff Ex. 2.0 at 6-7. What it provided with its Amended Petition is a 2 column table with the first column containing CLLI codes of wire centers in which it seeks designation and the second column the names of the associated ILECs, i.e., a wire center based identification of its proposed ETC service area. Id..

Aside from the failure to identify its proposed ETC service area by exchange, Q Link has presented conflicting descriptions of the overall geographic area in which it

³ As explained by Staff, in Illinois, an exchange may be identical to, encompass (or be encompassed by), or bifurcate (or be bifurcated by) a wire center serving the exchange. Staff Ex. 2.0 at fn. 16. In other words, in Illinois an exchange may be served by one or more wire centers and a wire center may serve one or more exchanges.

seeks designation. For example, in its Amended Petition, Q Link requests designation in the area as specified by 638 wire centers consisting of 268, 327 and 43 AT&T Illinois, Frontier North and Frontier Communications of the Carolina, respectively. Staff Ex, 1.0 at 39-40. It then asserts that, upon designation, it “will be able” to offer Lifeline services throughout Sprint’s wireless network coverage area (“to all locations served by its underlying carrier [Sprint]”). Amended Petition at 13. But, the overall geographic area specified by the 638 wire centers does not include all locations served by Sprint’s wireless network (e.g., it does not include locations served by Sprint’s wireless network within the Odin wire center (ODINILXE) of Odin Telephone Exchange, Inc.). Staff Ex. 2.0 at 13-14; Staff Ex. 2.01d. Also, in response to Staff DRs seeking information on the geographic area for which it seeks designation in its Amended Petition, Q Link claims that it actually seeks designation in 247 (as opposed to 268) AT&T Illinois wire centers and 325 (as opposed to 327) Frontier North wire centers. Staff Ex. 1.0 at 45 and fn. 63.⁴ While including one rural carrier, Frontier Communications of the Carolinas in Exhibit 6 of its Amended Petition, Q Link claims in response to a Staff Data Request that it in fact seeks designation in service areas of more than thirty rural carriers. Staff Ex. 1.0 at 45-46 and fn. 64.

In contrast to its Amended Petition (in which it provided a wire center based identification of its proposed ETC service area), Q Link identified its proposed ETC service area by 979 wire centers and 947 exchanges in its Rebuttal Testimony. Q Link

⁴ On March 7, 2014, Q Link amended its response to Staff DR-1.17B, to which the original response was provided on March 13, 2013. Staff Group Cross Ex. 3. In the amended response, it described the AT&T Illinois and Frontier North wire centers in which it seeks designation as those in Attachment 1.17B. Attachment 1.17B is identical to Q Link Ex. 2.1 of its Surrebuttal Testimony (also submitted on March 7, 2014), which includes 275 AT&T Illinois and 267 Frontier North wire centers, but does not correspond to those in its most recent ETC petition (i.e., Amended Petition dated December 13, 2012). In other words, on March 7, 2014, Q Link again changed its narrative regarding the overall geographic area in which it seeks ETC designation from this Commission.

Ex. 1.2. The identification of its proposed ETC service area in Q Link Ex. 1.2 is not exchange based (nor is it wire center based as it was in its Amended Petition). Staff Ex. 2.0 at 7-8. As a result, the building blocks associated with its identification of proposed ETC service area are not exclusively exchanges, as they should be under an exchange based identification (nor are they exclusively wire centers, as they should be under a wire center based identification); instead, they are a mixture of exchanges, wire centers and areas below the exchange and wire center levels. Id.

Similar with its proposed ETC service area in its Amended Petition, aside from its failure to provide an exchange based identification of its proposed ETC service area, Q Link has also demonstrated an inability to consistently and accurately describe the overall geographic area in which it seeks ETC designation in its Rebuttal Testimony. Staff Ex. 2.0 at 11-12.

In its Surrebuttal Testimony, Q Link identified its proposed ETC service area by 578 wire centers and 528 exchanges. Q Link Ex. 2.1. It once again failed to provide an exchange based identification of its proposed ETC service area. While admitting that it has not provided an exchange based identification of its proposed ETC service area in its testimonies, Q Link contends that it has added the names of exchanges to a list of wire centers to meet “Staff’s new requirement.” Q Link Ex. 2.0 at 8-9. But, Staff proposes no such “new requirement.” In particular, Staff did not and does not propose for Q Link to add the names of exchanges to any list of wire centers. Using both wire centers and exchanges in the description of its proposed ETC service area conflates two different geographical units and makes Q Link’s proposed ETC service area unclear. To add to the confusion, Q Link has made clear its intention to offer Lifeline

services in Illinois, if designated, by ZIP code (“Q Link will use zip codes to identify whether a potential Lifeline customer is eligible to apply for Lifeline services [from Q Link] in Illinois, not iterations of rate centers, wire center areas or exchanges”). Q Link Ex. 2.0 at 13. That is, while seeking designation in an area specified by wire centers, Q Link has no intention to provide Lifeline services in Illinois throughout the area specified by wire centers.

D. Supported Service Should Be Provided throughout Designated Service Area

A fundamental statutory requirement of an ETC is that it offer supported service throughout its designated ETC service area. 47 U.S.C. §214(e)(1). After identifying, by exchange, the geographic area in which it seeks designation, a carrier should provide evidence of its ability to meet the statutory requirement of Section 214(e)(1) of the 1996 Act to provide supported service throughout the geographic area identified by exchange. Staff Ex. 1.0 at 20-21. Q Link is a wireless reseller and provides wireless services using Sprint’s wireless network and, as a result, its ability to provide wireless services throughout an exchange is limited by Sprint’s wireless network. Staff Ex. 1.0 at 21. In order for Q Link to provide wireless services throughout an exchange using Sprint’s wireless network, there must be Sprint wireless network coverage throughout the exchange. To show that it has the capability to provide wireless services throughout an identified exchange, Q Link should provide evidence that the wireless coverage that Sprint provides to Q Link reaches all portions or 100% of the identified exchange. Staff Ex. 1.0 at 21. For each identified exchange in which Sprint’s wireless coverage provided to Q Link does not reach all portions of the exchange, Q Link should identify what portion (i.e., percentage) of the exchange is located within the coverage area and

how it will serve the remaining portion of the exchange which is located outside the wireless network coverage area Sprint provides to Q Link. Staff Ex. 1.0 at 21.

As noted above, Q Link in its Amended Petition requested designation in the area specified by the 638 wire centers in Exhibit 6 of the Amended Petition. Staff Ex. 1.0 at 39-40. It provided no evidence in the Amended Petition that it has the capability to provide wireless services using its underlying carrier's wireless network throughout its proposed ETC service area as specified by the 638 wire centers. There is sufficient evidence in the record that it does not have such capability. For example, its proposed ETC service area in its Amended Petition includes the Indianola (INDNILIN) and Galena (GALNILGA) wire centers, but only 7% of the Indianola wire center and 55% of the Galena wire center are located within Sprint's wireless network. Q Link Ex. 1.2. Therefore, there is sufficient evidence in the record that it does not have the capability to provide wireless services using Sprint's network throughout its proposed ETC service area specified by the 638 wire centers in its Amended Petition.

In response to a Staff request to clarify whether the areas in which it sought a certificate of wireless service authority from the Commission in Docket No. 11-0739 (i.e., areas "covered by Sprint, Verizon and AT&T") include all portions of AT&T Illinois service area and, if not, identify what portion is included, Q Link provides the following in its July 29, 2013 response:

No, the areas "covered by Sprint, Verizon, and AT&T" [i.e., the areas in which it sought a certificate of wireless service authority from this Commission in Docket No. 11-0739] does not include the entire AT&T service area (i.e., all the AT&T wire centers) in Illinois. There are 7 wire centers in the AT&T service area that are not covered. Please see Attachment 3.03B. Staff Ex. 1.2.

Attachment 3.03B includes the following AT&T wire centers: ELWDILAW, LBVLILAQ, NPVLILBJ, SCBGILRS, ELWOOD, PALATINE, and NAPERVILLE. Staff Ex. 1.2. Q Link is explicit and clear in its July 29, 2013 response: it did not seek a certificate of wireless service authority for the above AT&T wire centers from the Commission in Docket No. 11-0739. It, nonetheless, included the Naperville (NPVLILNA) and Palatine (PALTILPA) wire centers, in its proposed ETC service area in its Amended Petition. Staff Ex. 1.0 at 41-42; Staff Ex. 2.0 at 12-13. This proves that it does not have the ability (or authority pursuant to its telecommunications certification) to provide wireless services throughout its proposed ETC service area specified by the 638 wire centers in the Amended Petition.

Q Link claimed that it is able to provide wireless services throughout its proposed ETC service area as specified in Q Link Ex. 1.2 of its Rebuttal Testimony. Staff Ex. 2.0 at 15-16. This claim is erroneous and refuted by evidence in the record. Staff Ex. 2.0 at 12-20. For example, according to the wire center by wire center wireless coverage information furnished by Sprint which Q Link has included in Q Link Ex. 1.2 of its Rebuttal Testimony, of the 979 wire centers in Q Link Ex. 1.2, only 269 (or 27%) wire centers are located entirely within Sprint's wireless network, throughout which Q Link is able to provide resold wireless services using Sprint's wireless network, and the remaining 710 (or 73%) wire centers are located, in whole or in part, outside Sprint's wireless network, throughout which Q Link is not able to provide resold wireless services using Sprint's wireless network. Staff Ex. 2.0 at 16-17; Q Link Ex. 1.2. By including wire centers that are located in whole or in part outside Sprint's wireless network, Q Link has provided sufficient evidence that it does not have the technical

capability to provide resold wireless services using Sprint's wireless network throughout its proposed ETC service area specified in Q Link Ex. 1.2 of its Rebuttal Testimony.

Similar with its proposed ETC service area specified in the Amended Petition, Q Link included in the proposed ETC service area specified in Q Link Ex. 1.2 of its Rebuttal Testimony AT&T Illinois wire centers that, based upon the July 29, 2013 clarification, it has not sought and thus does not have the authority from this Commission to provide resold wireless services to. Staff Ex. 2.0 at 12-13. This, again, is evidence that it is not able to provide wireless services throughout its proposed ETC service area as specified in Q Link Ex. 1.2 of its Rebuttal Testimony.

Q Link claims that its wireless contract with Sprint proves that it is able to provide wireless services throughout its proposed ETC service area. Q Link Ex. 2.0 at 12. This is incorrect. While its wireless contract with Sprint permits it to provide wireless services using Sprint's wireless network (i.e., to resell Sprint's wireless services), the contract does not enable Q Link to provide wireless services in areas where Sprint wireless network does not reach. According to the wire center by wire center wireless coverage information furnished by Sprint, Q Link is not able to provide wireless services using Sprint's wireless network throughout its proposed ETC service area as specified in Q Link Ex. 1.2 of its Rebuttal Testimony. Q Link Ex. 1.2; Staff Ex. 2.03a.

Q Link suggests that Staff's finding of its inability (or lack of "technical expertise") is "more a statement about Sprint PCS, rather than Q Link" because "the degree of inaccuracy is not provided by Q Link." Q Link Ex. 2.0 at 13. This is incorrect. As the petitioner seeking designation, Q Link has the burden of proof to present evidence to show that it meets all Illinois evaluation criteria for ETC designation and is responsible

for the accuracy of information it provides, regardless of whether it is the party that creates or compiles the information. To the extent that Sprint's inability, if any, prevents Q Link from performing such task, Sprint's inability will be Q Link's inability for the simple reason that Q Link elects to provide services using Sprint's network. Q Link's obligation to provide accurate information does not change because of its reseller status. As explained by Staff, Q Link is free to design its business model; it is free to build its own network or to use another carrier's network, and in the latter case, free to choose which carrier's network to use, to provide wireless services in Illinois. Staff Ex. 1.0 at 107. Its choice of network (its own, Sprint's or another carrier) does not alter its burden of proof. Sprint's inability, if any, to furnish information for Q Link to show that it meets all requirements for ETC designation does constitute Q Link's inability and failure to provide the required information. In other words, Q Link cannot use its reseller status to shield itself from its burden of proof to provide accurate information to establish its fitness for ETC designation in Illinois or from any obligations imposed upon it.

Q Link accused Staff of refusing to evaluate wireless coverage information it provided because the information is provided by wire center, not by exchange. Q Link Ex. 2.0 at 14. This is incorrect. In fact, Q Link does not have the capability, and thus is unable, to provide wireless services throughout its proposed ETC service area as specified in Q Link Ex. 1.2 of its Rebuttal Testimony based upon the wire center by wire center wireless coverage information furnished by Sprint which Q Link presented in Q Link Ex. 1.2 of its Rebuttal Testimony. Staff Ex. 2.0 at 13-14 and 16-17.

Q Link claims that there is "sufficient [Sprint] wireless coverage" in each of the wire centers in its proposed ETC service area specified in Q Link Ex. 2.1 of its

Surrebuttal Testimony. Q Link Ex. 2.0 at 8-10. It does not define the term “sufficient wireless coverage.” Regardless, Section 214(e)(1) of the 1996 Act is clear: it requires an ETC to provide supported service throughout its designated area, not just in a portion of the designated area that the ETC considers to be “sufficient” based upon its own unspecified criteria. Q Link’s assertion that there is “sufficient wireless coverage” in each wire center is not evidence, by any standard, that it has the ability to provide supported services throughout each wire center in its proposed ETC service area.

According to the wire center by wire center wireless coverage information furnished by Sprint (which Q Link presented in Q Link Ex. 1.2 of its Rebuttal Testimony), Q Link is not able to provide wireless services (using Sprint’s network) throughout all 578 wire centers specified in its Surrebuttal Testimony. Of the 578 wire centers identified in Q Link Ex. 2.1 of its Surrebuttal Testimony, at least 328 wire centers are located in part outside Sprint’s network, throughout which Q Link is not able to provide wireless services using Sprint’s network. Q Link Ex. 1.2; Q Link Ex. 2.1. Q Link is only able to provide wireless services throughout about half of the wire center in numerous cases (e.g., Toulon (TOLNILXD), Camp Point (CMPNILXC), Royalton (RYTNILXE), and Manchester (MNCHILXC) wire centers). Therefore, not only hasn’t Q Link provided evidence of its ability, but it has provided evidence of its inability to provide wireless services using its underlying carrier’s network throughout its proposed ETC service area as specified by the 578 wire centers in Q Link Ex. 2.1 of its Surrebuttal Testimony.

Last but not least, under Section 214(e)(1) of the 1996 Act, an ETC must provide supported services throughout its designated area. In order to meet this requirement, Q Link must have the capability to determine whether a customer resides in its designated

area. Staff raised doubt on whether Q Link has such capability after it repeatedly showed its inability to accurately describe the overall geographic area in which it seeks designation. Staff Ex. 1.0 at 44-46; Staff Ex. 2.0 at 11-12. In response, Q Link stated: “Q Link will use zip codes to identify whether a potential Lifeline customer is eligible to apply for Lifeline services [from Q Link] in Illinois, not iterations of rate centers, wire center areas or exchanges.” Q Link Ex. 2.0 at 13. By determining whether a customer resides in its designated area using ZIP codes, Q Link effectively offers supported services to low income consumers throughout an area defined by ZIP codes, not throughout an area defined by wire centers. As discussed earlier, ZIP codes are assigned by the USPS based upon its operating needs, while an ILEC’s wire center boundaries are determined by the ILEC (or more precisely, by the reach of the ILEC’s switch). ZIP code areas and wire centers typically do not align with each other, and an area defined by wire centers typically does not correspond to an area defined by ZIP codes. Q Link claims that it seeks designation in the area specified by the 578 wire centers identified in Q Link Ex. 2.1. But, as it has made clear, it has no intention to provide supported services to low income consumers in Illinois throughout the area it has identified by wire centers. Instead, it has been its intention all along to provide supported services throughout some area identified by ZIP codes. Aside from the fact that the Commission should not rely upon a wire center based ETC service area definition, the Commission should not grant Q Link designation in any area defined by wire centers (or by exchanges), because Q Link has made it clear that it will provide supported services throughout an area defined by ZIP codes, not throughout an area defined by wire centers (or by exchanges).

In summary, Q Link has failed to carry its burden of proof to provide evidence that it is able to provide wireless services throughout any of its proposed ETC service areas and, in particular, throughout its proposed ETC service area specified in Q Link Ex. 2.1 of its Surrebuttal Testimony. Instead, it has provided sufficient evidence that it is not able to provide wireless services throughout any of its proposed ETC service areas and, in particular, throughout its proposed ETC service area as specified in Q Link Ex. 2.1 of its Surrebuttal Testimony.

E. Supported Service Should Be Advertised throughout Designated Service Area

Another fundamental statutory requirement of an ETC is that it must advertise supported services throughout its designated area. 47 U.S.C. §214(e)(1). In order to meet this requirement, Q Link must have a properly defined proposed ETC service area and a clear idea of the overall geographic area in which it seeks designation. As discussed above, Q Link has not accurately and consistently described the overall geographic area in which it seeks designation and has, instead, provided conflicting descriptions of the overall geographic area in which it seeks designation. Staff Ex. 1.0 at 44-46; Staff Ex. 2.0 at 11-12. As a result, Q Link has not shown that it has the ability to advertise supported services throughout its proposed ETC service area.

F. ETC Petitioner Should Prove Its Technical and Financial Capability

1. Illinois Section 54.201(h) Evaluation Criteria

As discussed earlier, to strength protections against waste, fraud and abuse of the federal low income program, the FCC imposed in its Lifeline Reform Order financial and technical capability requirements on Lifeline-only ETC designations. Staff Ex. 1.0

at 11-13. The Commission is prohibited from making a Lifeline-only ETC designation unless the carrier has demonstrated that it meets the financial and technical capability requirements of Section 54.201(h) and the Commission finds that it has done so. Id. The FCC provided some guidelines for the Commission to evaluate ETC petitions under Section 54.201(h) of the FCC rules:

Among the relevant considerations for such a showing would be whether the applicant previously offered services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state. Lifeline Reform Order at ¶388.

While prescribing guidelines, the FCC did not provide specific evaluation criteria for the Commission to assess whether an applicant meets Section 54.201(h) requirements in Illinois. For example, while suggesting that the Commission consider an applicant's prior record of providing services to non-Lifeline consumers in Illinois, the FCC did not specify how much "non-Lifeline consumer" experience is adequate. Staff Ex. 1.0 at 28. It falls upon the Commission to decide, consistent with the FCC guidelines, factors to be considered for the Commission's Section 54.201(h) evaluation of Q Link's petition. Id.

To meet Section 54.201(h) requirements in Illinois, Q Link should have a track record of providing wireless telecommunications services to non-Lifeline consumers in Illinois. Staff Ex. 1.0 at 29. In particular, in evaluating its petition under Section 54.201(h) of the FCC rules, the Commission should consider whether it has provided wireless telecommunications services to non-Lifeline end user customers in Illinois starting no less than six months prior to the submission of its petition (i.e., February 3, 2012). Id.; Original Petition. If Q Link has created such record in Illinois but such record does not definitely establish (i.e., fails by a narrow margin to establish) its ability to

profitably compete for wireless end user customers in Illinois without access to Lifeline subsidies, the Commission should also consider Q Link's track records of providing wireless telecommunications services to non-Lifeline end user customers in other states starting at least six months prior to wireless ETC designation in such other states (and whether it has become overly dependent on Lifeline subsidies after designation in other states). Staff Ex. 1.0 at 25-29. Staff notes that Q Link's record of providing wireless services to non-Lifeline consumers in other states before designation in the other states, if exists, should be used, in such limited circumstance, only to supplement, not to substitute for or override, consideration of its Illinois record. Staff Ex. 1.0 at 25-27.

As part of its Section 54.201(h) evaluation, the Commission should review Q Link's financial statements of at least one fiscal year prior to the submission of its ETC petition and its Illinois-specific revenue and related information; in particular, the Commission should consider Q Link's wireless financial performance without access to Lifeline subsidies and determine whether it has proven it is able to produce profits from its wireless operation in the absence of Lifeline subsidies. Staff Ex. 1.0 at 30-31.

The Commission should review Q Link's compliance record starting at least six months prior to the submission of its ETC petition; the Commission should determine, based upon such record, whether it has been operating in compliance with rules and laws in general and with its Illinois wireless E911 surcharge obligation in particular. Id.

The Commission should require Q Link to state in the petition whether it has been subject to any enforcement action or ETC revocation proceeding in any state. If it has been subject to such action, the Commission should require it to produce documentation associated with the enforcement action and/or revocation proceeding

and to show that it has remedied any compliance failings and has been operating in a compliant manner starting at least six months prior to the submission of its ETC petition in Illinois. Id.

In order to meet Illinois Section 54.201(h) requirements, Q Link should, at minimum, adequately address all considerations outlined above and show, based upon its record of providing wireless services to end user customers in Illinois, that it has the ability to compete for wireless end user customers in Illinois without access to Lifeline subsidies. Staff Ex. 1.0 at 24 and 31.

As explained by Staff, the objective of the Commission's Section 54.201(h) evaluation should be to ensure that a carrier has proven that it is able to compete for wireless end user customers in Illinois without access to Lifeline subsidies and thus would not critically rely on Lifeline subsidies to maintain its wireless operation in Illinois, thereby less likely to commit waste, fraud and abuse of the federal low income program. Staff Ex. 1.0 at 24-25 and 28-29. In order to ensure that a carrier would not become overly dependent on Lifeline subsidies after designation, Staff proposes that a wireless carrier be required to maintain a 20% non-Lifeline (or a 80% Lifeline) threshold: with non-Lifeline and Lifeline end user customers making up for at least 20% and at most 80% of its wireless end user customer base, respectively. Staff Ex. 1.0 at 29-30.

Staff notes that a certified wireless carrier such as Q Link is free to enter the Illinois market to provide wireless services to end user customers pursuant to the certificate of wireless service authority already granted by the Commission. The 20% non-Lifeline (or 80% Lifeline) threshold requirement should be imposed on a wireless carrier's ETC operation in Illinois, not on the carrier's non-ETC operation in Illinois. In

particular, this requirement should not limit or cap the number of non-Lifeline wireless end user customers a carrier may serve and thus generate revenue from in Illinois; instead, it should limit the proportion of its revenue it may generate from the federal Lifeline program as a wireless ETC in Illinois in order to ensure that the ETC will not become overly dependent on Lifeline support for its revenue after designation.

A 20% non-Lifeline (or 80% Lifeline) threshold requirement is reasonable, given that, of the Illinois households with telephone service, about 85% households do not receive Lifeline support for their telephone service and about 15% households receive Lifeline support for their telephone service. Tr. at 110. A carrier providing Lifeline and non-Lifeline services in proportion to how those services are currently provided on average in Illinois would expect 85% non-Lifeline end user customers. Staff's 20% non-Lifeline threshold recommendation would not, therefore, prevent an ETC from disproportionately serving Lifeline end user customers. It would, however, prevent a carrier from providing a de minimis amount of services to non-Lifeline end user customers and from overdependence on Lifeline services and subsidies.

To ensure compliance with the non-Lifeline threshold requirement and continued compliance with its Illinois wireless E911 surcharge obligation, as a condition for designation, the Commission should require a carrier to submit wireless customer reports and wireless E911 surcharge reports. Staff Ex. 1.0 at 30-31 and 37-38.

Q Link claims that neither the FCC nor any other state commission has implemented Staff's proposed Section 54.201(h) evaluation criteria. Q Link Ex. 2.0 at 16. First, there is no evidence in this proceeding regarding how the FCC or any state commission has evaluated or specifically implemented the requirements of Section

54.201(h) and, even if there were, it would be immaterial. It is this Commission that makes Section 54.201(h) determinations of ETC petitions in Illinois. It falls upon this Commission to determine, consistent with the FCC's guidelines, what specific factors to consider for this Commission's Section 54.201(h) evaluations.

Q Link claims that this Commission never applied Section 54.201(h) evaluation criteria proposed by Staff. Q Link Ex. 2.0 at 16. But, this Commission was never required to make a Section 54.201(h) determination of ETC designation prior to the Lifeline Reform Order. Also, requirements for ETC designation have been evolving over time since the FCC's 1st USF Order (FCC 97-157); new requirements are introduced, and existing requirements are modified or eliminated, over time. The fact that a requirement was not applied in past ETC proceedings is not a sufficient basis to reject the requirement. The reasonableness and appropriateness of a proposed requirement should be considered based upon facts and circumstances presented by and specific to the applicant in this proceeding, not based upon whether the Commission applied it in the past and, in particular, prior to the Lifeline Reform Order.

2. Q Link Does Not Meet Illinois Section 54.201(h) Requirements

Q Link does not and has not provided wireless services to end user customers in Illinois; it has made clear that it will not provide wireless services to end user customers in Illinois unless and until it is granted ETC designation (and thus access to Lifeline subsidies). Staff Ex. 1.0 at 47-48. It has, therefore, failed to demonstrate, based upon its record in Illinois, that it has the ability to compete for wireless end user customers in Illinois without access to subsidies.

Notably, as discussed earlier, it is also the case that Q Link does not have the capability to provide wireless services throughout its proposed ETC service area as specified in its Surrebuttal Testimony (or Rebuttal Testimony or Amended Petition). Therefore, the Commission should find that Q Link does not have the ability to provide supported services in Illinois.

As Q Link seeks designation for the purpose of providing subsidized wireless services to end user customers in Illinois, the Commission's Section 54.201(h) evaluation of its capability should be primarily based on its record of providing wireless services to end user customers in Illinois. Staff Ex. 1.0 at 25-27. In limited circumstances the Commission should also consider its comparable record in other states (i.e., record of providing wireless services to end user customers in other states prior to designation in the other states); in such cases, the non-Illinois record should be used to supplement, not to substitute for or override, its Illinois record. Staff Ex. 1.0 at 25-27 and 29. Such limited circumstances, however, do not arise in this proceeding. Staff Ex. 1.0 at 47-48 and 51.

If the Commission is to consider Q Link's comparable non-Illinois record, the most reasonable inference the Commission should draw for Illinois from its non-Illinois record is that Q Link's non-Illinois experience does not demonstrate that it will be able to compete for wireless end user customers in Illinois in the absence of subsidies. Staff Ex. 1.0 at 51-52. Q Link has authority to provide wireless services in 47 states; but, has never provided, let alone successfully, wireless services to end user customers in any state before designation in the state. Id.; Staff Ex. 1.3; Staff Ex. 1.3a-b.⁵ In conjunction

⁵ Q Link included some "non-Lifeline" customers in its third response to Staff DR-2.06 (Staff Ex. 1.3c); these "non-Lifeline" customers are, as it admits, its wholesale telecommunications customers, not

with its declaration for Illinois, this indicates that Q Link has been using Lifeline-only ETC designation as a carrier entry vehicle to facilitate its entry in the telecommunication market across all states and would not provide wireless services to end user customers in any state without access to Lifeline subsidies in the state. Staff Ex. 1.0 at 47-48 and 51-52. As explained by Staff, the Commission's Lifeline-only ETC designation is not designed to be a carrier entry vehicle in Illinois and should not be used so. Staff Ex. 1.0 at 48-51. Q Link has not created any record, let alone a successful record, of providing wireless services to end user customers in any non-Illinois state without access to Lifeline subsidies. Therefore, its comparable non-Illinois record does not support a conclusion that it has the ability to compete for wireless end user customers in Illinois without access to Lifeline subsidies, the ability the Commission should find it possesses before designating it as an ETC in Illinois.

According to wireless non-Lifeline end user customer information it has provided, not only hasn't Q Link provided wireless services to non-Lifeline end user customers in any state before designation (and thus without access to Lifeline subsidies), it also has not provided wireless services to non-Lifeline end user customers in any state after designation in the state. Staff Ex. 1.3; Staff Ex. 1.3a-b.

According to its most recent year revenue report to the FCC (i.e., FCC Form 499-A), which its CEO Mr. Asad certified to be accurate and correct, Q Link produced *XXXXXXX* revenue from universal service support ("USF revenue") and *XX* revenue from sources other than universal service support ("non-USF revenues") in 2012. Staff Ex. 2.04b. Hence, Q Link has relied exclusively on universal service support (or Lifeline

"wireless non-Lifeline end user customers" as requested in Staff DR-2.06; and Q Link has thus improperly inserted them into its third response to Staff DR-2.06 and, as a result, has improperly inflated the number of its "wireless non-Lifeline end user customers" from the level of *xxxx*. Staff Ex. 2.0 at 34-39.

support) for its revenue source;⁶ therefore, it did not produce any revenue from wireless services to non-Lifeline end user customers (nor did it produce any revenue from wholesale services, wireless or prepaid calling cards). This is consistent with the wireless non-Lifeline end user customer information it has provided; i.e., it did not serve any wireless non-Lifeline end user customers in any state before or after designation in the state.

After the submission of Staff Rebuttal Testimony, Q Link claimed that it “discovered” that non-USF revenue information it provided to the FCC and certified to be accurate and correct is in fact inaccurate and incorrect (“[Q Link’s] 2013 FCC Form 499-A incorrectly states its non-Lifeline revenue [i.e., revenue from sources other than Lifeline support]”) and promised to rectify the failure (“Q Link is taking step to amend its FCC Form 499-A”). Q Link Ex. 2.0 at 22. Q Link submitted its revised revenue report on March 14, 2014 and certified that the revised revenues, in particular, the revised non-USF revenues, are accurate and correct. Staff Group Cross Ex. 4. An examination of its revised revenue report shows that Q Link reported exactly same amounts of non-USF revenues on its revised revenue report as it did on its original revenue report: *XX* for each and every revenue category other than universal service support. Hence, Q Link has again represented to the FCC that it relied exclusively on universal service support (or Lifeline support) for its revenue source and did not produce any non-USF revenue; especially, it did not produce any revenue from wireless services to non-Lifeline end user customers (nor did it produce any revenue from wholesale services,

⁶ Q Link is not a high-cost ETC and thus does not receive high-cost universal service support. Staff Ex. 2.10c. Its USF revenue is equal to its revenue from Lifeline support (“Lifeline revenue”), and its non-USF revenue is equal its revenue from sources other than Lifeline support (“non-Lifeline revenue”).

wireless or prepaid calling cards). Again, this is consistent with the wireless non-Lifeline end user customer information it has provided; i.e., it did not serve any wireless non-Lifeline end user customers in any state before or after designation in the state.

Q Link's exclusive reliance on universal service support (or Lifeline support) in other states does not support a hypothesis that it is able to compete for wireless end user customers in Illinois in the absence of Lifeline subsidies or that it will not critically rely on Lifeline subsidies for its wireless operation in Illinois should it be designated as an ETC in Illinois. If the Commission is to consider Q Link's record in other states, the most and only reasonable inference the Commission should draw for Illinois should be that Q Link is not able to compete for wireless end user customers in Illinois without access to Lifeline subsidies.

For reasons stated above, the Commission should find that Q Link has failed to establish that it has the ability to compete for wireless end user customers in Illinois without access to Lifeline subsidies and has therefore failed to meet Illinois Section 54.201(h) requirements.

3. Other Q Link Information

a. Q Link's Website Information Does Not Support Its Claim That It Provides Wireless Services to Non-Lifeline End User Customers

As discussed above, both its revenue reports and wireless non-Lifeline end user customer information show that Q Link has not provided wireless services to non-Lifeline end user customers in any state before or after designation in the state. Information from its website is consistent with this. Specifically, there is no indication on its website, www.qlinkwireless.com, that it markets wireless services to non-Lifeline end user customers (who are not currently maintaining an account with it). Staff Ex. 2.0 at

30-32 and fn. 144. As its mission statements make clear, Q Link's mission is to provide wireless Lifeline phone and service to low income consumers (“[the] Company's, mission is to wirelessly connect people to their world, regardless of their income. [The Company is] fulfilling this vision by consistently providing reliable, economical and high-quality Lifeline cell phones and service to qualified low-income individuals within the United States” (emphasis added); Staff Ex. 2.0 at fn. 14; “Q Link Wireless provides low-income families and individuals their basic need to stay connected” by offering “federally-assisted wireless services under the Lifeline and Link-Up America programs;” Id.). Consistent with its mission statements, Q Link's website (www.qlinkwireless.com) does not provide an option for prospective non-Lifeline end user customers to subscribe to its wireless services online or by phone. The toll free customer service lines provided on this website, 1-855-754-6543 and 1888-680-3663, provide various options for Lifeline customers but no option for non-Lifeline end user customers to subscribe for its wireless services. Staff Ex. 2.0 at 32. Q Link claimed in its Surrebuttal Testimony for the first time that it offers wireless services to non-Lifeline customers through an alternative website, <http://qlinkprepaid.com>. Q Link Ex. 2.0 at 22. However, having set up an alternative website is not proof that Q Link has provided wireless services to non-Lifeline end user customers in any state before or after designation in the state. Moreover, the toll free customer service line, 1-855 754 6543, listed on this alternative website, which Mr. Asad claims solely offers non-Lifeline services, is the same as one of the two toll free customer service lines that Q Link uses for its Lifeline customers. Staff Ex. 2.0 at 32; <http://qlinkprepaid.com> (accessed April 2, 2014). As explained by Staff, this toll free customer service line (1-855-754-6543) provides nine options: the first

option is for prospective Lifeline customers to sign up for Q Link's wireless service; the sixth option is for adding minutes to a customer's existing account; none of the options is for prospective non-Lifeline customers (i.e., customers not currently maintaining an account with Q Link) to sign up for Q Link's wireless services. Staff Ex. 2.0 at 32. This casts doubt on Q Link's new claim that it offers wireless services to non-Lifeline end user customers through this alternative website.

In sum, information from its website is consistent with its FCC revenue reports and wireless non-Lifeline customer information, the latter of which show that it has not provided wireless services to any non-Lifeline end user customers in any state before or after designation in the state.

b. Q Link Claims That It Has Been Providing Wholesale Telecommunications Service in Illinois Since 2012

Q Link claims for the first time in its Rebuttal Testimony that it has been providing wholesale telecommunications services in Illinois since 2012. Q Link Ex. 1.0 at 11. It made no such assertion in its Original or Amended Petition or Compliance Plan; nor has it provided any credible evidence for such assertion. Staff Ex. 2.0 at 21-24. Moreover, the assertion is refuted by evidence in the record.

As discussed above, its FCC revenue reports, which Mr. Asad certified to be accurate and correct, show that it relied exclusively on universal service support for its revenue source; did not produce any non-USF revenue; and in particular did not produce any revenue from wholesale services in any state, including Illinois.

According to its third response to Staff DR-2.06, into which it claims it has inserted its wholesale customers, the numbers of wholesale customers it has served in

Illinois is *xxxx* for each month since its incorporation in August 2011. Q Link Ex. 1.0 at 14; Staff Ex. 1.3c; Staff Ex. 2.0 34-39.

Q Link claimed in its Surrebuttal Testimony that the wholesale services it provides are wireless services, which it is certified to provide in Illinois. Q Link Ex. 2.0 at 26. According to its response to Staff DR-1.03, it did not produce any wireless revenue, wholesale or retail, in Illinois in 2012. Staff Ex. 2.05c.

Therefore, the claim that it has been providing wholesale telecommunications services in Illinois since 2012 is repeatedly refuted by evidence in the record.

c. Q Link Claims That It Has Been Providing Wireless Services Since 2011.

Q Link has repeatedly claimed that it has been providing wireless services since 2011. Q Link Ex. 1.0 at 10; Staff Ex. 1.9b; Staff Ex. 1.0 at 58; Staff Ex. 2.0 at 29. According to its response to Staff DR-2.04, Q Link did not produce any wireless revenue in any state in 2011. Staff Ex. 2.0 at 29; Staff Ex. 2.05b. This is further confirmed by its revenue report to the FCC, which shows that it produced *XX* USF revenue and *XX* non-USF revenue in 2011. Staff Ex. 2.04a. According to its response to Staff DR-1.01, it did not even enter into a wireless resale contract with its underlying carrier until March 2012. Staff Ex. 2.0 at 29; Staff Ex. 2.05a. Therefore, its claim that it has been providing wireless services since 2011 is refuted by evidence in the record.

d. Q Link's Claim That It Produces A Majority of Its Revenue from Sources Other Than Lifeline Support And Has Never Relied Exclusively On Lifeline Support

Q Link claims that it produces a majority of its revenue from sources other than Lifeline support and has never relied exclusively on Lifeline support for revenue. Q Link

Ex. 1.0 at 11-12; Staff Ex. 2.0 at 42-43. As discussed below, not only hasn't Q Link provided any credible evidence to support the claim, evidence in the record refutes it.

i. Q Link's 2012 Revenues

Q Link provided its Income Statements and original/revised FCC revenue reports pertaining to its 2012 revenues. Its total revenue, USF revenue (or revenue from universal service support) and non-USF revenue (or revenue from sources other than universal service support) claimed on each occasion are summarized below:

Table 1: Summary of Q Link Revenues

	Total revenue (\$) claimed	Non-USF revenue (\$) claimed	Non-USF revenue (%) claimed	USF revenue (\$) claimed	USF revenue (%) claimed
Income Statements	*XXX,XXX,XXX*	*XXX,XXX,XXX*	*XX.XX%*	*XX,XXX*	*X.XX%*
Original FCC Form 499-A	*XX,XXX*	*XX*	*X.XX%*	*XX,XXX*	*XXX.XX%*
Revised FCC Form 499-A	*XXX,XXX,XXX*	*XX*	*X.XX%*	*XXX,XXX,XXX*	*XXX.XX%*

Source: Staff Ex. 2.10a, Q Link Ex. 1.6, Staff Ex. 2.04b, and Staff Group Cross Ex. 4.

Q Link claimed on its Income Statement that it produced *XX,XXX* revenue from Lifeline support and *XXX,XXX,XXX* revenue from wholesale services in 2012 or that it produced *X.XX%* of its revenue from universal service support and *XX.XX%* of its revenue from other sources in 2012. Staff Ex. 2.10a; Q Link Ex. 1.6; Staff Ex. 2.0 at 44-45. Its claim of revenues on its Income Statement is consistent with its assertion in testimony that it produces a majority of its revenue from sources other than universal service support and has never relied exclusively on universal service support for its revenue (Q Link Ex. 1.0 at 11-12). However, both are rebutted by its FCC revenue reports, which Mr. Asad certified to be accurate and correct.

Clearly from Table 1, Q Link has consistently stated to the FCC that it produced *XX* (and thus *X%*) of its revenue in 2012 from sources other than universal service

support and has thus relied exclusively on universal service support for its revenue.⁷ Specifically, on both its original revenue report (dated April 1, 2013) and revised revenue report (dated March 14, 2014), Q Link certified to the FCC that it relied exclusively on universal support for its revenue in 2012; it did not produce any revenue from sources other than universal service support; and in particular it did not produce any revenue from wireless services to non-Lifeline end user customers (nor did it produce any revenue from wholesale services). Therefore, the claim that it produced *XXX,XXXXXX* (or *XX.XX%*) of its revenue in 2012 from sources other than universal service support and the claim that it has never relied exclusively on universal service support for its revenue are rebutted by its FCC revenue reports.

ii. Q Link's Wholesale Services

Q Link claims to provide wholesale telecommunications services. See, for example, Q Link Ex. 1.0 at 11 and 14; Staff Ex. 2.06; Q Link Ex. 2.0 at 21. If a carrier provides wholesale services, it should be able to readily and correctly identify the type of wholesale services it provides (e.g., prepaid calling cards services, wireline services, or wireless services, etc.). Q Link could not do so. In response to Staff's request to identify each and every service, telecommunications and non-telecommunications, that it provides, aside from its primary activity of providing wireless service to Lifeline consumers, Mr. Asad specifically identified one class of services: wholesale prepaid calling cards services. Staff Ex. 2.06. Based on this information, the only wholesale services Q Link provides are wholesale prepaid calling cards services. After the

⁷ Q Link is not a high-cost ETC and does not receive high-cost support. Thus, the universal service support it receives should be equal to the Lifeline support it receives. Staff Ex. 2.10c.

submission of Staff Rebuttal Testimony, Mr. Asad attempted to withdraw his statement (identifying its wholesale services as prepaid calling cards services (“Q Link does not provide prepaid calling card service”). Q Link Ex. 2.0 at 26.

Q Link claims in its Surrebuttal Testimony that the wholesale services it has been providing are wireless services, not prepaid calling cards services as Mr. Asad has previously identified (“To be clear: Q Link does not provide prepaid calling card service, it provides prepaid wireless retail and wholesale service”). Q Link Ex. 2.0 at 21 and 26. It further claims that it provides wholesale services to carriers that are federal universal service fund (“FUSF”) contributors (“companies who contribute to the [Federal] Universal Service Fund”). Q Link Ex. 2.0 at 22. As evidence that it has authority to provide wholesale services in Illinois, it points to the certificate of wireless service authority granted by the Commission; and as evidence that it provides wholesale services, it refers to Q Link Ex. 2.3 as “concrete evidence” that it provides wireless services to other carriers. Q Link Ex. 2.0 at 21 and 26.

Q Link Ex. 2.3 contains what appear to be the first pages of three contracts Q Link supposedly entered into with *XXXXXXXXXXXXXXXX,XXXXXXXXXXXXXXXXXXXX. XX*. But, there is no evidence that these pages are part of true and correct copies of contracts Q Link has entered into with these carriers; there is no evidence that Q Link has ever entered into wireless resale contracts with these carriers; there is no evidence that these pages are part of currently effective contracts; and most of all, there is no evidence that these carriers have ever purchased wireless services from Q Link during any time period since its incorporation in August 2011. In addition, when interpreting a contract, Illinois law requires consideration of the

XX

XX*

(emphasis added). Q Link Ex. 2.3. According to New York State Department of State's record, *XX

XXXXXXXXXXXXX* does not exist under the laws of the State of New York: *XXXXXX*

corporate entity was dissolved more than a year ago on April 3, 2013. Appendix 1.2. According to the FCC's database, *XXXXX* has not reported any revenue, and thus has not been a FUSF contributor, since 2010, in particular, since Q Link's incorporation in August 2011. Id.

Therefore, the court, FCC and state public records refute and thus discredit the "concrete evidence" Q Link presented to support its claim (that it provides wholesale services to FUSF contributors and its wholesale services are wireless services) and, thus, its claim.

Moreover, according to information it has provided, Q Link did not have the capacity to provide, and did not provide, wholesale wireless services in 2012; and in particular, it did not produce the *XXXXXXXXXX* wholesale revenue from wireless services provided to other carriers. According to Q Link, it provides wireless services using Sprint's wireless network (i.e., by reselling Sprint's wireless services). Amended Petition at 3; Q Link Ex. 1.0 at 3. In fact, the only wireless contract Q Link had with an underlying carrier in 2012 is the contract with Sprint. Staff Ex. 2.05a. By claiming that it provided wholesale wireless services in 2012, Q Link essentially claims that it resold Sprint wireless services to other carriers. But, the wireless wholesale contract it has entered into with Sprint prohibits it from reselling Sprint's wireless services to other

- Q Link's Lifeline support revenue has increased by *XXXXXXXXXX* in 2013, from *XXXXXX* in 2012 to more than *XXXXXXXXXX* in 2013. Staff Ex. 2.0 at 44-45 and 49-50.
- Q Link's operating income has declined by *XXX* in 2013, from *XXXXXX* in 2012 to (prorated) *XXXXX* in 2013. Id.
- Q Link's net income has declined by *XXXXX* in 2013, turning from a net profit of *XXXXXXXXX* in 2012 to a (prorated) net loss of *XXXXXXXXX* in 2013. Id.

Assuming for the sake of argument that these revenue statements are accurate, during the first two years in which it produced revenues, Q Link's Lifeline support revenue increased by *XXXXXXXXXX*; its operating income declined by *XXX*; and its net income declined by *XXXXX*, turning from a net profit to a net loss. Staff Ex. 2.0 at 49-50. Therefore, while it has shown the ability to collect subsidies, Q Link has not established its ability to sustain its wireless operation without access to subsidies: notably, even with more than \$4.5 million federal Lifeline subsidies (*plus* state low income support amounts), Q Link was not profitable in 2013.

f. Q Link Asserts That Members of Its Management Worked for Other Entities That Provided Telecommunications Services in Illinois

Q Link asserts that members of its management worked for more than 15 years for entities that provided telecommunications service in Illinois. Staff Ex. 2.0 at 24-25. There is no evidence to support this claim. Staff Ex. 2.0 at 25-26. With the exceptions of Q Link and WorldCom, none of the entities included in Mr. Asad's work history on his resume has ever been certified to provide telecommunications service in Illinois. Staff Id. While WorldCom was certified to provide local/interexchange service in Illinois, there is no evidence that, during his brief stay with WorldCom's Miami office, Mr. Asad was involved in WorldCom's telecommunications operation in Illinois. Id. While certified to provide resold wireless services in Illinois, Q Link has not offered, and will not offer

without access to subsidies, wireless services to end user customers in Illinois; it has, therefore, not marketed and provided wireless services to end user customers in Illinois. Therefore, there is no evidence to indicate that Mr. Asad, while working for other entities, has marketed and provided telecommunications service to end user customers in Illinois for any length of time, let alone for over 15 years.

This is also appears to be true for other members of its management. While claiming that members of its management have provided telecommunications service in Illinois for over 15 years, Q Link has not identified any carrier that is certified by the Commission to provide telecommunications services, and has provided telecommunications services, in Illinois for which members of its management previously worked for over 15 years. Staff Ex. 2.0 at fn. 72; Staff Ex. 2.07; Staff Group Cross Ex. 3. Therefore, there is no evidence to support Q Link's assertion that members of its management previously worked for over 15 years for entities that provided telecommunications service in Illinois.

Moreover, as explained by Staff, the numbers of years individual employees of Q Link worked for other entities are not, by themselves, proof that Q Link has, or has not, the ability to compete for wireless end user customers in Illinois without access to subsidies. Staff Ex. 2.0 at 26-27. To the extent that the numbers of years (individual employees of Q Link worked for other entities) bear on Q Link's wireless operation in Illinois, the impact should be reflected in its wireless telecommunications services and in its wireless performance record in Illinois. As Q Link, not other entities, seeks designation for the purpose of providing subsidized wireless services to end user customers in Illinois, the Commission's Section 54.201(h) evaluation should directly

examine Q Link's record of providing wireless services to end user customers in Illinois and determine, based upon such record, whether it has proved it is able to compete for wireless end user customers in Illinois without access to subsidies.

g. Other State Commission Decisions

Q Link claims that it should be deemed to have met Illinois Section 54.201(h) requirements, because some other state commissions have found it so in their respective states. Q Link Ex. 1.0 at 10. It does not claim, let alone provides evidence, that other state Commissions were presented with exactly the same set of facts and circumstances as this Commission has been. Regardless, as explained by Staff, each state commission decides its own evaluation criteria and determines, based upon its own evaluation criteria and circumstances and facts presented by and specific to the applicant in its own state, whether the applicant meet the state commission's requirements. In particular, this Commission decides criteria to be used for its evaluation of Q Link's petition in Illinois and determines whether Q Link has met all such criteria. It is irrelevant how many other state commissions have found that it passes their evaluations based upon their own criteria and facts and circumstances presented to them in their respective states. This Commission makes its own determination of Q Link's petition based upon this Commission's evaluation criteria and facts and circumstances presented to it in this proceeding.

h. Resale Agreement

In support of its claim that it should be deemed to have met Illinois Section 54.201(h) requirements, Q Link states that it has a resale agreement with Sprint. Q Link Ex. 1.0 at 10. For obvious reasons, a resale agreement is necessary for a reseller to

provide resold services. It is not proof that the reseller is able to compete for end user customers in Illinois without access to subsidies. In fact, despite its resale agreement with Sprint, Q Link has not competed, let alone successfully, for wireless end user customers in Illinois. Staff Ex. 2.0 at 28-29.

i. Access to Capital

Q Link cites its access to capital as proof that it should be deemed to meet Commission's Section 54.201(h) requirements. Q Link Ex. 1.0 at 11-12. For obvious reasons, access to capital and credit line is necessary for a carrier's operation. It is not proof of the carrier's ability to compete for wireless end user customers in Illinois. Despite its access to capital and credit line, Q Link has not competed, let alone successfully, for wireless end user customers in Illinois. Staff Ex. 2.0 at 51.

j. Q Link Claims That There Is No Evidence of Its Inability to Compete for Wireless End User Customers In Illinois without Access to Lifeline Subsidies

Q Link claims that there is no reason to suggest that it is unable to compete for wireless end user customers in Illinois without access to subsidies. Q Link Ex. 1.0 at 10 and 13; Q Link Ex. 2.0 at 20. But, this is not the question Q Link has the burden of proof to answer in this proceeding. As explained by Staff, the objective of the Commission's Section 54.201(h) evaluation should be to determine whether Q Link has provided concrete and credible evidence that it is able to compete for wireless end user customers in Illinois without access to Lifeline subsidies. Staff Ex. 1.0 at 24-25; Staff Ex. 2.0 at 20-21. The pertinent burden of proof is not for the Commission to present evidence to prove that Q Link is unable to compete for wireless end user customers in Illinois without access to subsidies; rather, it is for Q Link to provide evidence to prove

that it is able to compete for wireless end user customers without access to Lifeline subsidies, a burden of proof Q Link has failed to meet.⁸ Staff Ex. 2.0 at 28-29.

k. Q Link Management's Inability to Produce Lifeline Customer Information

The capability of a certified telecommunications carrier in Illinois should include, at a minimum, an ability to perform the fundamental task of managing and maintaining a customer information system capable of storing and producing customer information. Staff Ex. 1.0 at 65. Q Link has shown that it does not possess such ability and is unable to provide the numbers of customers it served in the past. Staff Ex. 1.0 at 59-65. For example, Staff DR-2.07 requests that Q Link provide the numbers of Lifeline customers it served in each state and in each month during the 20-month period ending March 2013. Staff Ex. 1.4. Q Link provided its Lifeline customer counts on May 13, 2013 and July 22, 2013, respectively, the latter of which are inconsistent with the former. Staff Ex. 1.0 at 61. Q Link offers two possible explanations for the large discrepancies: customer switching between Lifeline plans and customers' cancellations and terminations. Staff Ex. 1.0 at 61-62. But, neither can reasonably account for these large discrepancies. Staff Ex. 1.0 at 62-64. By its second possible explanation, Q Link tacitly asserts that its customer information system is unable to keep track of the numbers of customers it served in the past and cannot keep track of customer cancellations and terminations. Staff Ex. 1.0 at 64-65. Q Link's inability to provide the numbers of Lifeline customers it

⁸ Of course, evidence of its inability would constitute proof of its failure to establish its ability to compete for wireless end user customers in Illinois without access to subsidies; but a lack of evidence of its inability does not mean that it has established its ability to compete for wireless end user customers in Illinois without access to subsidies, which is the objective of the Illinois Section 54.201(h) evaluation outlined in Staff direct testimony. Staff Ex. 2.0 at fn. 79.

served in the past and its explanation for such inability suggest that it does not possess the basic technical capability to operate as a telecommunications carrier in Illinois.

I. Q Link's Inability to Retain Lifeline Customers

A carrier's competitiveness is in part measured by its ability to gain and retain customers. Lifeline customer information Q Link has provided suggests high turnover rates for its free services. Staff Ex. 1.0 at 66-67. For instance, according to FCC Form 497, Q Link served *XXXX* Lifeline customers in Maryland in March 2013. According to information provided in July 2013, of the *XXX* Lifeline customers, only *XXX* were still with Q Link as of July 19, 2013. *Id.* This means that, of the *XXX* Lifeline customers it served in Maryland in March 2013, *XXX* had been cancelled or de-enrolled as of July 19, 2013. According to FCC Form 497, Q Link served *XXXX* Lifeline customers in Missouri in March 2013. According to information provided in July 2013, of the *XXXX* Lifeline customers, only *XX* were still with Q Link as of July 19, 2013. *Id.* This means that, of the *XXXX* Lifeline customers it served in Missouri in March 2013, *XXX* had been cancelled or de-enrolled as of July 19, 2013. Such high turnover rates for its free wireless services indicate that Q Link is not able to entice customers to remain with it even when it offers free services. Such high Lifeline customer turnover rates for its free services do not support a conclusion that Q Link should be designated as an ETC in Illinois.

4. Summary

For all the reasons articulated above, Q Link has not demonstrated the financial and technical capabilities that the Commission must find it has in order to designate it as a wireless ETC in Illinois.

G. Ability to Comply with Rules and Laws

1. Ability to Comply with Federal Rules and Laws

Q Link asserts in its Rebuttal Testimony that it is able to and has been in compliance with rules, laws and FCC requirements. Q Link Ex. 1.0 at 8 and 28; Staff Ex. 2.0 at 68-69. Such assertion is refuted by evidence in the record.

a. Section 54.711(a) of the FCC Rules

Under Section 54.711(a) of the FCC rules, each telecommunications carrier must accurately and truthfully report its revenues to the FCC for the purpose of determining its federal universal service contribution obligation. Staff Ex. 2.0 at 46-47; 47 C.F.R. §54.711. Based upon information it has provided in this proceeding, Q Link has not accurately reported its revenue information to the FCC and thus has not complied with Section 54.711 of the FCC rules. As noted earlier, Q Link's revenues (total revenues, USF revenues and non-USF revenues) it claimed on Income Statements and original/revised FCC revenue reports are summarized in Table 1 (Summary of Q Link Revenues). From Table 1, while asserting in this proceeding that it produced *XXXXXXXXXX* non-USF revenue in 2012, Q Link represented to the FCC that it produced *XX* non-USF revenue (i.e., revenue from sources other than universal service support) on its revenue report submitted on April 1, 2013. Q Link claimed in its Surrebuttal Testimony that this (its non-USF revenue information to the FCC) is an error ("[Q Link's] 2013 FCC Form 499-A incorrectly states its non-Lifeline revenue [as *XX*]") and promised to rectify it ("Q Link is taking steps to amend its FCC Form 499-A"). Q Link Ex. 2.0 at 22. Q Link submitted its revised revenue report to the FCC on March 14, 2014. Staff Group Cross Ex. 4. An examination of its revised revenue report shows

that Q Link reported exactly the same amounts of non-USF revenues on its revised revenue report as it did on its original revenue report: *XX* for each and every revenue category other than universal service support. Id. That is, while claiming to correct its error on its revised revenue report, Q Link has instead repeated the purported error by reporting exactly the same non-USF revenue amounts on its revised revenue report (*XX*). Therefore, based on its claim in its Surrebuttal Testimony (Q Link Ex. 2.0 at 22), Q Link has failed to comply with Section 54.711 of the FCC rules with respect to its non-USF revenues on both its original and revised revenue reports.

A review of its revised revenue report shows that Q Link has also failed to comply with Section 54.711 of the FCC rules pertaining to its USF revenue, which is exempted from federal universal service contribution obligation. According to the Universal Service Administration Corporation's ("USAC's") Reports and database, Q Link received \$37,555 federal Lifeline support for Lifeline service provided in 2012, \$3,178 of which was paid out to it in 2012 and \$34,377 of which was paid out to it in 2013. <http://www.usac.org/li/tools/disbursements/default.aspx> (SPIN: 143036544); USAC 2nd Quarter 2014 FCC Reports - LI05. According to Q Link, it received \$78.27 Lifeline support for 2012 from state universal service programs and \$0 high-cost support for 2012 from federal/state universal service programs. Staff Ex. 2.10c. Its USF revenue for 2012 is \$37,633. But, Q Link claimed on the revised revenue report that it received *XXXXXXXXX* universal service support for 2012 and has, therefore, overstated its USF revenue by *XXXXXXX*. Staff Group Cross Ex. 4.

b. Section 54.405(e)(3) of the FCC Rules

A carrier committed to comply with a rule is expected to make the necessary effort to ensure that it is and remains compliant with the rule. The FCC released its Lifeline Reform Order on February 6, 2012, which set forth, among other things, rules governing an ETC's de-enrollment of non-usage customers. Lifeline Reform Order at ¶¶255-263 and at Appendix A (Final Rules). Under the new rules, an ETC that does not assess a monthly charge for its service "will not receive Lifeline support for inactive subscribers who have not used the service for a consecutive 60-day period." Lifeline Reform Order at ¶257. If a customer fails to use its Lifeline service for 60 consecutive days, the ETC must provide the customer 30 days' notice; the customer will be removed from the Lifeline roll unless the customer uses its Lifeline service within 30 days of such notice. 47 C.F.R. §54.405(e)(3); Staff Ex. 2.0 at 71.

The FCC's rule is clear; a Lifeline customer does not need to make at least one call a month in order to remain on a Lifeline roll. As explained by Staff, Q Link failed to adhere to the FCC's rule. Staff Ex. 2.0 at 70-72 and fn. 210. Specifically, it informed and warned its Lifeline customers that "[the customers] are required to make at least one call per month to keep [their] Q Link wireless phone service active." Staff Ex. 2.0 at 70 and fn. 210. A Lifeline customer does not need to make at least one call per month in order to keep its Lifeline service active; in fact, a customer's Lifeline service cannot be terminated simply because it fails to make any call for 60 consecutive days; a customer's Lifeline service can be terminated for non-usage only if the customer has failed to use the service for 60 consecutive days and has also failed to use the service within the 30 days' notice period. Staff Ex. 2.0 at 71.

Q Link's recorded message, as well as its website message, misrepresents the FCC rule and has the effect of requiring customers to make calls they would not otherwise have made. In misrepresenting FCC's rule to consumers, Q Link cannot be considered to be in compliance with FCC rules or to have acted in the public interest.

Q Link claimed in its Surrebuttal Testimony that it fixed the misrepresentation problem on its toll free customer service line and its website. Q Link Ex. 2.0 at 33. Nonetheless, a carrier committed to comply with a rule is expected to make the necessary effort to ensure that it is and remains compliant with the rule. A carrier that complies with rules only when violations are pointed out to it, as Q Link has done, cannot be considered to be committed to compliance.

2. Ability to Comply with State Rules and Laws

In its Amended Petition, Q Link requested waivers from eight sections of the Commission's wireless ETC rules: 736.610, 736.620, 736.630, 736.640, 736.650, 736.680, 736.685, and 736.690. Staff Ex. 1.0 at 94. Staff supports its waiver requests for Sections 736.610, 736.620, 736.630, 736.640, 736.650, 736.685, and 736.690; not its waiver request for Section 736.680, which governs payments for service, because Q Link has provided no valid basis for such waiver. Staff Ex. 1.0 at 94-95.

In its Amended Petition, Q Link pledged to comply with all sections of Part 736 applicable to it, but did not identify the list of sections of Part 736 that it considers applicable to it. Staff Ex. 1.0 at 95. It additionally failed to do so in its response to a Staff request. Staff Ex. 1.0 at 95-97. In a supplemental response, it again elected not to provide such a list. Staff Ex. 1.0 at 97-98. It, instead, borrowed the list of sections of Part 736 that Staff specified in a different Data Request (DR-3.12) for a different

purpose, which does not include all sections of Part 736 that are applicable to Q Link. Staff Ex. 1.0 at 98-99. As explained by Staff, this is not only improper but it also indicates that Q Link does not know the specifics of its own Part 736 pledge. Id. In other words, while pledging to comply with applicable sections of Part 736, Q Link has shown its inability to provide the specifics of its commitment (i.e., the list of sections of Part 736 it considers applicable).

Consistent with its inability to provide specifics of its Part 736 commitment, Q Link has failed to provide evidence that it has the ability to meet the Commission's wireless ETC rules. For example, Q Link failed to provide evidence that it has the ability to comply with the requirements of Sections 736.305 and 736.505 of Part 736. Staff Ex. 1.0 at 100-105. Q Link indicated its intention to use a Sprint letter as evidence of its ability to meet certain sections of Part 736, but has failed to procure a Sprint letter certifying compliance with the certain sections. Staff Ex. 1.0 at 106.

After failing to provide evidence of its ability, Q Link asserted that Staff's request (Staff DR-3.12) for it to provide evidence that the wireless network it uses to provide wireless service meets network related requirements of the Commission's wireless ETC rules is in conflict with Section 736.100 of the Commission's wireless ETC rules. Staff Ex. 1.0 at 106; Staff Ex. 1.9d. Staff disagrees. Staff Ex. 1.0 at 106-108. Section 736.100 makes clear; Part 736 of the Commission's rules sets forth service quality and consumer protection rules with which all wireless ETCs, facilities- and non-facilities-based, prepaid and non-prepaid, must comply. Sprint is not a wireless ETC in Illinois, nor does it seek designation in this proceeding; it is, therefore, not required to provide evidence of its ability to meet the Commission's wireless ETC rules. Id.

The request for Q Link to provide evidence that the wireless network it uses to provide wireless service in Illinois meets network related requirements of the Commission's wireless ETC rules is not tantamount to imposing such requirements on its underlying carrier, Sprint. Staff Ex. 1.0 at 107-108. Q Link is free to design its business model; it is free to build its own wireless network or to use another carrier's wireless network, and in the latter case, is free to choose which carrier's wireless network to use to provide wireless service in Illinois. Id. Its choice of wireless network (its own, Sprint's or another carrier's) does not alter its obligation in general and its obligation under Part 736 in particular; whichever wireless network it elects to use, it has the burden of proof to provide evidence that it has the ability to meet all sections of Part 736. Id. If it elects to use a wireless network that does not meet all network related requirements of the Commission's wireless ETC rules, it cannot meet all requirements of the Commission's wireless ETC rules and thus should not be designated as a wireless ETC in Illinois. Id.

After failing to provide evidence of its ability, Q Link asserted in its Rebuttal Testimony that its wholesale contract with Sprint is evidence of its ability to meet the Commission's wireless ETC rules. Staff Ex. 2.0 at 66-67. As noted by Staff, Q Link has had ample opportunities to present concrete evidence that its wholesale contract proves it is able to meet all provisions of Part 736; it, however, has not identified a single provision of its wholesale contract and a single provision of Part 736 to show that the former proves it has the ability to meet the latter. Staff Ex. 2.0 at 66-67. Moreover, Sprint has declined to certify on behalf of Q Link that the wireless network Q Link elects to use in Illinois meets the Commission's wireless ETC rules. Staff Ex. 2.0 at 66-67 and

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XXXXXX”*. Staff Ex. 1.0 at 103-104. Also, Q Link has identified no contract provision that guarantees it the same rights as Sprint where transmission limitations occur. Staff Ex. 1.0 at 103-104. Q Link has therefore provided no evidence to support its assertion.

In its Rebuttal Testimony, Q Link claims that “[t]hrough the Company’s interconnection with Sprint, all customers have 911 and E911 access, and all 911 traffic is handled in accordance with 83 Illinois Administrative Code 725 and the Emergency Telephone System Act.” Staff Ex. 2.0 at 67. The claim that all its 911 traffic in Illinois is handled in accordance with 83 Illinois Administrative Code Part 725 (“Part 725”) and the Emergency Telephone System Act (“ETSA”) is not credible, because Q Link does not provide wireless service in Illinois and has no wireless 9-1-1 traffic (originating from wireless customers in Illinois) to handle, a fact it is compelled to concede in its Surrebuttal Testimony (“to clarify, Q Link currently handles no E9-1-1 traffic in Illinois”). Staff Ex. 2.0 at 67; Q Link Ex. 2.0 at 33.

As explained by Staff, Q Link’s claim that all its 9-1-1 traffic in Illinois is handed in accordance with Part 725 and ETSA not only is not credible but it calls into question its ability to comply with rules and laws in general. Staff Ex. 2.0 at 67-68. A commitment to meet a rule entails more than the willingness to make assertions; it entails, at minimum, the willingness to attain an understanding of the rule and to determine that it can and will meet it; but, Q Link has shown no understanding of the specific requirements of Part 725 or ETSA. *Id.* For instance, Section 2.12(c) of the ETSA states that “[f]or the purposes of [ETSA], ‘telecommunication carrier’ does not include a cellular or other mobile communication carrier.” Staff Ex. 2.0 at 67-68. Also, Part 725 of the

Commission rules implementing Section 10 of the ETSA expressly provides that Part 725 “does not apply to a cellular or other mobile communication carrier as defined in Section 10 of the Wireless Emergency Telephone Safety Act [50 ILCS 751/10].” Staff Ex. 2.0 at 67-68. Q Link’s declaration of compliance with Part 725 (and ETSA) without making the effort to understand the applicability of such rule not only reflects its excessive willingness to make unsupported assertions but it calls into question the credibility of its commitments.

In its Surrebuttal Testimony, Q Link asserts that it has entered into a resale contract with T-Mobile. Q Link Ex. 2.0 at 32. According to Q Link, despite the new contract, it continues to request designation in wire centers of AT&T Illinois, Frontier North and Frontier Communications of the Carolinas in which there is “sufficient” Sprint wireless coverage; thus implying that it intends to provide service using Sprint’s network as stated in its Amended Petition. Id. According to Q Link, “the addition of T-Mobile” supplements Sprint’s 9-1-1 capabilities: “if Sprint PCS’s service is unavailable for E9-1-1 call completion, Q LINK can rely on T-Mobile to complete the call.” Id. This implies that Q Link only intends to use T-Mobile’s network for routing 9-1-1 calls from its customers (to whom it provides service using Sprint network) when and where Sprint wireless service is unavailable. The referred to contract, however, does not serve as evidence of Q Link’s 9-1-1 capabilities.

First, the claim that Q Link has entered into a resale contract with T-Mobile is inaccurate and misleading. The referred to contract is between Q Link and Prepaid Wireless Wholesale LLC (“PWW”), not between Q Link and T-Mobile. Staff Group Cross Ex. 3. The contract provides that PWW will furnish to Q Link services that PWW

procures from its underlying carrier, but, it does not identify T-Mobile as an underlying carrier or the underlying carrier. Id. Thus, Q Link has provided no evidence that its contract with PWW permits it to use T-Mobile's network, let alone in the manner described by Q Link (i.e., routing 9-1-1 calls from its customers to whom it provides service using Sprint's network when and where Sprint's network is unavailable). Second, in order for Q Link to use T-Mobile network to route 9-1-1 calls from its customers to whom it provides service using Sprint's network, there must be an interconnection arrangement between the two physical networks. Q Link has provided no evidence of such arrangement between the Sprint network and the T-Mobile network permitting it to use the T-Mobile's network in the manner it describes. Third, Q Link has provided no information on T-Mobile's wireless network within its proposed ETC service area. In particular, it has not identified, for any wire center in its proposed ETC service area, what percentage (if any) of the wire center is located within T-Mobile's wireless network. As a result, Q Link has provided no evidence that it can use T-Mobile network to route calls from its customers (to whom it provides service using Sprint network) within its proposed ETC service area where and when Sprint's network is unavailable. Therefore, Q Link has provided no evidence that its contract with PWW permits it to use T-Mobile network at all, let alone to use T-Mobile's wireless network in the manner it described (i.e., to route 9-1-1 calls to its customers to whom it provides service using Sprint's network when and where Sprint's network is unavailable).

H. Illinois Consumer Benefit Evaluation

1. Illinois Consumer Benefit Evaluation Criteria

As discussed earlier, the Commission's evaluation of ETC designation should be made on individual case basis, based upon facts and circumstances presented and specific to the applicant. In particular, the Commission's public interest benefit calculus is a case by case determination and evolves over time, and in each individual case, as more ETCs are designated in Illinois; the benefits to consumers (and hence the potential public interest benefits) resulting from an additional designation are generally greater for the first one, two or few ETCs designated in a given geographic area than for, say, the fiftieth such ETC designated. Staff Ex. 1.0 at 34.

Designating an additional Lifeline-only ETC is not without cost implications; an additional designation would generally increase the overall likelihood of waste, fraud and abuse of the federal low income program in Illinois, unless there is absolute certainty, which there isn't, that the additional ETC will not commit waste, fraud and abuse. Id. The federal low income program is funded by consumers and businesses; unconstrained growth of the program will "jeopardize universal service by increasing the contribution burden on American consumers and businesses, thereby discouraging adoption and use of communications services," which form the funding basis for supported services. Staff Ex. 1.0 at 34 and fn. 47. Not surprisingly, minimizing the contribution burden on consumers and businesses, as well as ensuring the availability of affordable supported service to low income consumers, is among the program goals of the federal low income program. Staff Ex. 1.0 at 34-35 and fn. 48.

The federal low income program has expanded considerably in the past decade; notably, it has more than doubled in the three year period since 2009, the year that saw

the advent of prepaid wireless ETCs. Staff Ex. 1.0 at 35 and fn. 49. The rapid increases in the funding size of the program in recent years and reports of waste, fraud and abuse of the program have fueled concerns over the program. Staff Ex. 1.0 at 35 and fn. 50. Strengthening protections and constraining the size of the program to ensure it remains viable were among the primary objectives of the FCC's recent efforts to reform the federal low income program. Staff Ex. 1.0 at 35 and fn. 51. Lifeline-only ETC designation grants a carrier access to the federal Lifeline subsidies intended for low income consumers; the Commission is the entity authorized to determine a carrier's fitness for ETC designation in Illinois, thus the designated "gate-keeper" entrusted with the responsibility to control and oversee such access in Illinois. Staff Ex. 1.0 at 35. To protect consumers, low income and non-low income consumers, the Commission has the obligation to ensure that each designation is consistent with the public interest, convenience, and necessity; the Commission should not designate a carrier as a Lifeline-only ETC unless the carrier has met all other evaluation criteria in Illinois and the designation of the carrier as an additional ETC will produce additional benefits to consumers, and hence the public interest benefits, in Illinois. Staff Ex. 1.0 at 35-36.

As explained by Staff, a public interest benefit of a Lifeline-only ETC designation is an incremental (or additional) benefit to consumers resulting from the additional designation and a benefit that is currently unavailable to consumers in the marketplace (i.e., not offered by any existing ETC) but will become available upon the designation. Staff Ex. 1.0 at 36 and 75. A benefit that is currently available to consumers (i.e., offered by at least one existing ETC) is not a public interest benefit resulting from Q Link's designation; for example, access to emergency services is an important benefit to

consumers, but it is currently available in the marketplace and thus not an incremental benefit resulting from Q Link's designation. Staff Ex. 1.0 at 75.

As the petitioner seeking designation, Q Link has the burden of proof to show that its designation is consistent with the public interest, convenience and necessity; it has the burden to show that it meets all other requirements in Illinois and its designation as an additional ETC will produce additional benefits to consumers (i.e., benefits that are currently unavailable to consumers in the marketplace in its proposed ETC service area but will become available upon its designation). Staff Ex. 1.0 at 74-75.

2. Failure to Establish Public Interest Benefits of ETC Designation

Q Link claims in its Amended Petition that its designation will produce the public interest benefits of larger local calling areas (as compared to traditional wireline carriers), mobility, free service, additional minutes at flexible and affordable amounts, access to 9-1-1 emergency service, no credit check, and no long-term contract. Staff Ex. 1.0 at 80 and fn. 103. As discussed above, for a benefit to be a public interest benefit from its designation, Q Link has the burden to present a fact-based analysis to show that the benefit is not currently offered by any ETC in its proposed ETC service area and will become available upon its designation. Staff Ex. 1.0 at 36 and 80. Q Link, however, has not made such a showing; it could not identify a single area within its proposed ETC service area in which no prepaid wireless ETCs currently offers prepaid wireless Lifeline options, free prepaid wireless Lifeline options, or free prepaid wireless Lifeline options with 250 or more minutes; it could not name a single prepaid wireless ETC in its proposed ETC service area that does not provide consumers all the claimed benefits (i.e., larger local calling areas (as compared to traditional wireline carriers,

mobility, free-of-charge service, additional minutes at flexible and affordable amounts, access to 9-1-1 emergency service, no credit check, and no long-term contract). Staff Ex. 1.0 at 81 and fn. 104-105. As a result, Q Link has not met its burden to demonstrate that the claimed benefits constitute additional benefits (and hence the public interest benefits) from its designation as an addition ETC. Staff Ex. 1.0 at 81.

Q Link asserts in its Amended Petition that its designation will enable it to save customers from losing wireless service altogether, thereby promoting the public interest: “[p]roviding Q LINK with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest,” Staff Ex. 1.0 at 81-83. As explained by Staff, if there exists an area or community within its proposed ETC service area in which low income consumers currently do not have available to them in the marketplace affordable (in particular free) prepaid wireless Lifeline options, providing affordable (in particular free) prepaid wireless Lifeline options in such area or community would help save low income consumers in adverse economic conditions from losing wireless service altogether, which would constitute a public interest benefit from the designation; but Q Link cannot name a single area or community within its proposed ETC service area that meets such criterion. Staff Ex. 1.0 82-83 and fn. 107. Therefore, there is no merit to Q Link’s claim that its designation will save consumers from the danger of losing wireless service altogether. Staff Ex. 1.0 at 83.

Q Link also claims that its designation will produce the benefits of increased consumer choice. Staff Ex. 1.0 at 83 and fn. 108. Whether a Q Link Lifeline plan represents a meaningful increase in consumer choice depends on the specifics of the

plan and the specifics of all Lifeline plans currently available in the marketplace in its proposed ETC service area. Staff Ex. 1.0 at 76-78. To show that its Lifeline plan represents a meaningful increase in consumer choice, Q Link must present a fact-based comparison of its Lifeline plan with all Lifeline plans currently available in the marketplace in its proposed ETC service area, and must present evidence to establish a reasonable expectation of nontrivial demand for the Lifeline plan in its proposed ETC area, because, as explained by Staff, a plan few or no customers will select cannot be said to represent a meaningful increase in consumer choice. Id. But, Q Link presents no such analysis or evidence. Staff Ex. 1.0 at 84 and fn.109. As a result, it has not met its burden to show that its designation as an additional ETC will produce additional benefits to consumers and, hence, the public interest benefits.

Q Link asserts in its Amended Petition that its designation will produce public interest benefits of increased competition by spurring other carriers to target low-income consumers with service offerings tailored to the consumers' needs and to improve the other carriers' existing networks and service offerings. Staff Ex. 1.0 at 84. By this claim, Q Link tacitly asserts that ETCs, in particular, Lifeline-only ETCs, in its proposed ETC service area do not sufficiently target low-income consumers and that it has sufficient competitiveness in the Illinois telecommunications market to influence the behaviors of other carriers; but, it presents no evidence to support either supposition. Staff Ex. 1.0 at 84-85.

As explained by Staff, a carrier's ability to influence the behavior of other carriers depends on the market structure (i.e., number and capabilities of other carriers) and its own competitiveness. At the time when it claimed in the Amended Petition to have the

ability to influence the behaviors of other carriers, Q Link did not know the identities of these other ETC providers. Staff Ex. 1.0 at 85 and fn. 110. Moreover, Q Link has provided no evidence that ETCs, in particular, Lifeline-only ETCs, in its proposed ETC service area do not target low income consumers or tailor their service offerings to consumers' needs; no evidence that its proposed Lifeline options are more tailored to consumers' needs than each and every Lifeline option, in particular each and every prepaid wireless Lifeline option, currently available in the marketplace in its proposed ETC service area; and no evidence that it has the ability to spur other carriers to tailor more to the needs of low income consumers through its (Q Link's) Lifeline offering. Staff Ex. 1.0 at 85-86 and fn. 111. In addition, while claiming that its designation will spur other carriers to improve their networks, Q Link could not identify a single network improvement it envisions would result from or be spurred by its designation. Staff Ex. 1.0 at 86 and fn. 112. Furthermore, Q Link has had the opportunity but has failed to prove that it has the competitiveness to withstand competitive pressure from other carriers to maintain a firm footing in the Illinois market and therefore has certainly not demonstrated that it can exert competitive pressure in return on these other carriers in the Illinois market. As explained by Staff, while an additional service provider represents a potential source of competitive pressure, it does not follow that every additional service provider has the competitiveness to influence the behavior of other carriers, in particular, to spur them to improve their existing networks and service offerings for fear of losing customers to the additional service provider. Staff Ex. 1.0 at 78-79. Q Link has presented no evidence that it is such an influential competitor in Illinois. Above all, it has had the opportunity to spur other carriers since January 2012

(when it was granted a certificate of wireless service authority); but, it has not spurred a single competitive response from any carrier in Illinois; it is, at best, presumptuous of Q Link to claim to have such capability.

Q Link claims in Amended Petition that its designation “will help assure that quality services are available at ‘just, reasonable, and affordable rates’ as envisioned in the [1996] Act.” Staff Ex. 1.0 at 87 and fn. 114. It does not assert, let alone provides evidence, that quality services are not currently available at just, reasonable and affordable prices in any portion of its proposed ETC service area. Staff Ex. 1.0 at 88. In fact, it could not name a single area or community within its proposed ETC service area in which consumers currently do not have access to quality services at just, reasonable and affordable rates. Staff Ex. 1.0 at 88 and fn. 116. Therefore, Q Link has not met its burden of proof to show that providing quality services at just, reasonable and affordable rates, even if its services are quality services, constitutes an additional benefits to consumers (and thus public interest benefits) from its designation as an additional ETC. Staff Ex. 1.0 at 88.

Q Link claims in its Rebuttal Testimony that, unlike many Lifeline-only ETCs, it offers unsupported services (i.e., international calling and directory assistance calling), thus justifying its designation. Staff Ex. 59 and fn. 177-178. That is, after failing to establish any concrete incremental benefit from its supported services in its Amended Petition, Q Link in its Rebuttal Testimony attempts to satisfy the Illinois consumer benefit evaluation through its unsupported services. Staff Ex. 2.0 at 59. As explained by Staff, since Q Link seeks designation for the purpose of offering supported services, it should satisfy the Illinois consumer benefit evaluation primarily through its supported

services; its unsupported services should not be, by themselves, sufficient for it to meet the Illinois consumer benefit criterion. Staff Ex. 2.0 at 59-60 and fn. 179.

While claiming that some ETCs do not offer international calling and directory assistance calling, Q Link has presented no evidence in its Rebuttal Testimony to support such claim. Staff Ex. 2.0 at 60-61. Even if the claim is substantiated, it is, nonetheless, not proof that its designation will produce concrete incremental benefit from its unsupported services, let alone from its supported services. Id. As explained by Staff, a public interest benefit of an ETC designation is an incremental benefit from the designation and a benefit that is currently unavailable or not offered by any ETC in the marketplace; a benefit not offered by some ETCs does not constitute an incremental benefit. Id. Q Link does not claim, let alone provides evidence, that no ETC in its proposed ETC service area includes international calling and directory assistance calling in its service packages, or conversely that, if designated, Q Link would be the only ETC in its proposed ETC service area that includes international calling and directory assistance calling in its service packages. Therefore, while attempting to rely on unsupported services to satisfy the Illinois consumer benefit evaluation, Q Link has failed to establish that its designation will produce any concrete incremental benefit (i.e., benefit not offered by any ETC in its proposed ETC service area) from its unsupported services, let alone from its supported services. Staff Ex. 2.0 at 60-61.

Also as noted by Staff, inclusion of an unsupported service in its service package does not, by itself, mean that Q Link is providing significant benefits to consumers; for instance, consumers who do not use such unsupported service will not benefit from the inclusion of it in the service package. Staff Ex. 2.0 at fn. 181. While attempting to meet

the Illinois consumer benefit requirements through its unsupported services, it has provided no evidence that there is non-trivial demand for either of its unsupported services (international and directory assistance calling) among low income consumers in Illinois. Id.

Q Link claims that, unlike many ETCs, it performs certain functions in-house as opposed to outsourcing them (i.e., billing, marketing, sales, accounting, Customer Service, representative training, enrollment and verification processes, shipping, and compliance infrastructure design, build, and operation). Staff Ex. 2.0 at 61-63. While making such claims about other carriers, Q Link does not identify these other carriers, let alone provides evidence that these other carriers do not perform the cited functions in-house as it claims; by its own admission, Q Link does not have “detailed information on other carriers’ internal business decisions or operations;” it, therefore, cannot credibly claim to know the detailed business plan (e.g., what functions are performed in-house and what functions are outsourced) of each ETC in its proposed ETC service area. Staff Ex. 2.0 at 62 and fn. 184. As a result, Q Link’s claim that many ETCs do not perform the cited functions in-house is little more than an unsupported claim. Staff Ex. 2.0 at 62.

More importantly, as explained by Staff, each carrier tailors its business model to its specific needs; some outsource more or different functions than others; there is no established correlation between the degree of outsourcing and the extent to which a carrier’s supported (or unsupported) services will benefit consumers or the extent to which the carrier is more consumer-oriented. Staff Ex. 2.0 at 62-63. Therefore, Q Link’s claim that many ETCs do not perform the cited functions in-house, even if

substantiated, which it is not, is not proof that its supported (or unsupported) services will produce incremental benefits to consumers (and, hence, public interest benefits) or proof of its fitness for ETC designation in Illinois. Staff Ex. 2.0 at 63.

As evidence that it should be designated as an ETC, Q Link claims that it will enroll customers in Illinois using kiosks. Staff Ex. 2.0 at 63. According to Q Link, kiosk enrollment is a form of online enrollment that “is exactly the same” as online enrollment via Internet by computer: “Q LINK considers enrollments by kiosk machines as part of online enrollment. The enrollment process at a kiosk is exactly the same as via the internet with the only difference being whether the consumer is using a Home PC, Public PC, or a Q LINK kiosk.” Staff Ex. 2.0 at 63. Despite its assertions, Q Link has not enrolled a single Lifeline customer in any state using a kiosk; with the very few exceptions in which enrollments are done by phone, Q Link has been enrolling Lifeline customers exclusively using non-kiosk online enrollment. Staff Ex. 2.0 at 64. It remains to be seen whether Q Link will ever commence kiosk enrollment in any ETC state and, if so, whether consumers will ever find its kiosk an appealing form of enrollment. Id. More importantly, Q Link has not provided copies of detailed enrollment procedures of ETCs in its proposed ETC service area, or a detailed fact-based comparison between its enrollment procedure and those of the ETCs in its proposed ETC service area. Staff Ex. 2.0 at 64. By its own admission, Q Link does not have “detailed information on other carriers’ internal business decisions or operations;” it thus cannot credibly claim that its enrollment procedure is superior to those of ETCs in its proposed ETC service area. Staff Ex. 2.0 at 64 and fn. 189. Therefore, Q Link has not established that its enrollment procedure, including kiosk enrollment, is superior to those of the ETCs in its

proposed ETC service area or that its enrollment procedure qualifies it for ETC status. Staff Ex. 2.0 at 64.

As evidence that it should be designated as an ETC, Q Link also claims that its marketing strategy sets it apart from ETCs in Illinois (“Q LINK utilizes online marketing strategies that sets it aside from other ETCs”). Staff Ex. 2.0 at 65. While making such assertion about ETCs in Illinois, Q Link has presented no evidence that its marketing strategy in fact sets it apart from ETCs in its proposed ETC service area. Staff Ex. 2.0 at 65. In particular, Q Link has not provided copies of detailed marketing plans of ETCs in its proposed ETC service area, or a detailed fact-based comparison of its own marketing plan with those of the ETCs in its proposed ETC service area. Id. By its own admission, Q Link does not have “detailed information on other carriers’ internal business decisions or operations.” Staff Ex. 2.0 at 65 and fn. 193. As a result, it cannot credibly claim that its marketing plan sets it apart from ETCs in its proposed ETC service area. In any event, Q Link has not presented evidence that its marketing strategy in fact sets it apart from ETCs in its proposed ETC service area or that its marketing strategy should qualify it for ETC status in Illinois.

Two years after claiming in its Original Petition (dated February 3, 2012) that its designation will produce public interest benefits, Q Link for the first time made some effort to present information on ETCs in Illinois and their Lifeline offerings. Q Link Ex. 2.0 at 28. Nonetheless, Q Link has again failed to meet its burden of proof to establish non-trivial incremental benefits from the supported services it proposes to offer to low income customers in Illinois and thus from its designation in Illinois. To begin with, it has failed to identify all Lifeline options of all ETCs and, in particular, all prepaid wireless

Lifeline options currently available in the marketplace in its proposed ETC service area; has failed to provide a fact-based comparison of its proposed Lifeline plans with all Lifeline options currently available in the marketplace in its proposed ETC service area. When it does provide information on ETCs in Illinois and their Lifeline offerings, Q Link provides incomplete and incorrect information. When it does provide a comparison of its proposed free Lifeline plans with those of ETCs in Illinois, it does so improperly.

Q Link has failed to identify all Lifeline options (i.e., options available to Lifeline customers) currently offered in the marketplace in its proposed ETC service area. For example, Q Link has failed to present wireless plans offered to Lifeline customers by i-Wireless LLC (“i-Wireless”), Nexus Communications, Inc. and Cricket Communications, Inc. (“Cricket”). Q Link Ex. 2.0 at 28. As a result, it cannot and has not established that its designation will produce benefits to consumers that are currently not offered by any ETC and thus currently unavailable in the marketplace in its proposed ETC service area.

Q Link omits key information in its description of Lifeline options offered by ETCs in Illinois. For example, Q Link describes Cellular Properties’ Lifeline plan by the monthly rate of \$18.64 (after Lifeline discount) (“[Cellular Properties] [o]ffers a \$18.64 (after discount) Lifeline Plan”): while highlighting the fact that Cellular Properties charges for directory assistance calls, Q Link omits a key fact that Cellular Properties’ Lifeline plan is offered with unlimited usage. Appendix 2.1; Q Link Ex. 2.0 at 28 and fn. 110; <http://cellular1.net/plandetails.asp?plan=lifeline> (April 9, 2014). Q Link describes Illinois Valley Cellular’s (“IVC’s”) Lifeline plan also by the monthly rate of \$8.70 (“[IVC] [o]ffers a \$8.70 (after discount) Lifeline Plan”): while highlighting the fact the IVC

charges customers an activation charge, it omits a key fact that IVC's Lifeline plan is offered with unlimited usage. <http://www.ivcel.com/plans/c/other/lifeline-calling-plan/> (April 9, 2014); Q Link Ex. 2.0 at 28 and fn. 110; Appendix 2.1. Identifying the price of a product without identifying the specifics of the product does not allow for meaningful comparison. For example, identifying the monthly rate of a Lifeline plan without identifying the number of minutes included in the plan does not provide for meaningful comparison.

Regarding Cricket Communications, Inc. ("Cricket"), Q Link notes that Cricket offers a Cricket Lifeline Credit of \$10 (= \$9.25 federal Lifeline support plus \$0.75 carrier discount). <http://www.mycricket.com/community/cell-phone-news/illinois-cricket-lifeline-credit> (April 9, 2014); Q Link Ex. 2.0 at 28 and fn. 110. But, Q Link claims that Cricket's customers "must activate a non-Lifeline account [with Cricket in order] to apply for Lifeline" and "minute plans and rates not listed [on Cricket website]." Q Link Ex. 2.0 at 28. Q Link is misleading and wrong in the claim that a Cricket Lifeline customer must become a Cricket non-Lifeline customer first (i.e., must open a "non-Lifeline account") before it may become Cricket's Lifeline customers. Cricket's website cited by Q Link does not use the phrase "non-Lifeline account" or require a prospective Lifeline customer to become a non-Lifeline customer first before it may become a Lifeline customer. <http://www.mycricket.com/community/cell-phone-news/illinois-cricket-lifeline-credit> (April 9, 2014); Q Link Ex. 2.0 at 28 and fn. 110; Appendix 2.1. What Cricket's website states is that a customer must have a Cricket account before it can apply the Cricket Lifeline Credit of \$10.00 to the monthly rate of the service plan selected by the customer. This makes sense; otherwise, where and how would Cricket apply the \$10

Cricket Lifeline Credit. Cricket's practice is in line with wireline ETCs, which also apply the Lifeline discount to the monthly rate of the service selected by their Lifeline customers. Requiring a customer to have an account before a carrier applies the Lifeline discount to the monthly rate of the service selected by the customer does not constitute forcing or requiring the customer to become a non-Lifeline customer first or to open a non-Lifeline account before the customer may enroll in the carrier's Lifeline program. Q Link's assertion that Cricket requires a Lifeline customer to be a non-Lifeline customer (i.e., to open "a non-Lifeline account") before permitting the customer to enroll in its Lifeline program is wrong and misleading.

Q Link also erroneously claims that Cricket does not list its "minute plans and rates" on the website cited by Q Link (<http://www.mycricket.com>). Contrary to the claim, the website shows that Cricket offers five wireless plans with unlimited usage at monthly rates (before Lifeline discount) of \$35, \$45, \$50, \$60 and \$70, respectively. <http://www.mycricket.com/cell-phone-plans#basic-plans>; <http://www.mycricket.com/cell-phone-plans#smartphone-plans> (April 8, 2014); Appendix 2.1. With a Cricket Lifeline Credit of \$10.00, the monthly rates (after Lifeline discount) are \$25, \$35, \$40, \$50, and \$60, respectively. Clearly, Q Link's claim that Cricket website does not list its wireless plans is erroneous.

Q Link's representation of Tracfone's wireless Lifeline plans is incomplete and erroneous. It repeatedly asserts that it should be deemed to produce public interest benefits because it offers international calling and no-additional-charge directory assistance calling. But, according to Tracfone's website cited by Q Link, Tracfone also offers international calling and no-additional-charge directory assistance calling.

<https://www.safelinkwireless.com/Enrollment/Safelink/en/Public/WelcomeCenter.html>;

Appendix 2.2. While claiming such unsupported services are important to Illinois low income consumers and should be considered for the Illinois consumer benefit evaluation, Q Link leaves out such unsupported services from its description of Tracfone's wireless Lifeline plans when it presents Tracfone's wireless Lifeline plans for comparison with its own proposed Lifeline plans. Moreover, Q Link describes Tracfone's 125-Minute Plan and 250-Minute Plan as including "no long distance." Q Link Ex. 2.0 at 28. This is incorrect and refuted by Tracfone's website cited by Q Link.

<https://www.safelinkwireless.com/Enrollment/Safelink/en/Public/WelcomeCenter.html>

(March 16, 2014); Appendix 2.2. Therefore, Q Link's representation of Tracfone prepaid wireless Lifeline plans, made for the purpose of comparison with its own proposed Lifeline plans, is both incomplete and incorrect.

One cannot make a meaningful comparison of two prices without also comparing the underlying products. Q Link claims that its proposed free Lifeline plans with 250 or fewer minutes are lower-cost alternatives to the non-free Lifeline plans with unlimited usage offered by some ETCs (e.g., Cellular Properties, IVC, Cricket, etc.), because, according to Q Link, the monthly rates (after Lifeline discount) associated with its free Lifeline plans are \$0, while the monthly rates (after Lifeline discount) of the non-free wireless plans with unlimited usage are greater than \$0. In short, it limits its comparison to the monthly rates without taking into account the numbers of minutes included in the respective plans. As a result, it reaches the erroneous conclusion that its proposed free Lifeline plans represent lower-cost alternatives to the non-free Lifeline plans with unlimited usage. Take the example of a customer who uses 1000 voice minutes per

month. If the customer subscribes to Cricket's basic non-free Lifeline plan with unlimited usage at a monthly rate of \$25 (after Lifeline discount), the customer will be able to satisfy his need at a monthly cost of \$25.00. In contrast, if the customer subscribes to Q Link's free 250 Lifeline plan at a monthly rate of \$0 (after Lifeline discount), it would have to purchase an additional minute plan with 750 (or more) minutes in order to meet his monthly need of 1000 minutes. The only Q Link additional minute plan with 750 (or more) minute is the unlimited minute plan at a rate of \$60 (for 30 days). Staff Ex. 1.7. The total monthly cost (after Lifeline discount) for this customer if he subscribes to Q Link's service would be $\$60.00 = \$0 + \$60$. In this example, though Q Link offers a free Lifeline plan and Cricket does not, Cricket's non-free Lifeline plan is clearly a lower-cost alternative to Q Link's Lifeline option for this customer. Of course, for a customer with a monthly usage of 200 minutes, a free Lifeline plan with 200 or more minutes would be a lower-cost alternative to the non-free Lifeline plan with unlimited usage. Therefore, by omitting the number of minutes included in the plans and consumers' usage, Q Link's comparisons of the prices of its own free Lifeline options with 250 or fewer minutes with the prices of non-free Lifeline options with unlimited usage is misguided and meaningless.

More importantly, the fact that some ETCs in Illinois (e.g., Cricket, IVC, Cellular Properties, etc.), in lieu of free Lifeline plans with limited usage, offer non-free Lifeline plans with unlimited usage, does not mean that free Lifeline plans are currently unavailable in the marketplace in Q Link's proposed ETC service area or that Q Link's proposed free Lifeline plans would represent a meaningful increase in consumer choices and thus the benefits of increased consumer choice. As discussed earlier, a

public interest benefit from an ETC designation is an incremental benefit from the designation and a benefit that is currently not offered by any ETC, and thus is currently unavailable, in the marketplace in the proposed ETC service area. Q Link does not and cannot claim that no ETC in its proposed ETC service area offers free prepaid wireless Lifeline plans, or conversely that, if designated, it would be the first and only prepaid wireless ETC in its proposed ETC service area that offers free wireless Lifeline options. In fact, according to the websites Q Link provides, numerous prepaid wireless ETCs in Illinois offer free prepaid wireless Lifeline options with 250 or more minutes at monthly rates (after Lifeline discount) of \$0: e.g., PlatinumTel, Telrite, Tracfone, and Yourtel. Q Link Ex. 2.0 at 27-28. Therefore, by proposing to offer free Lifeline options, Q Link does not provide alternatives that are lower in costs than what are currently offered by ETCs in Illinois and thus what are currently available in the marketplace in Illinois. Therefore, the free-of-charge (after Lifeline discount) features of Q Link's proposed wireless Lifeline plans do not constitute incremental benefits from its designation.

Q Link's comparison of its own Lifeline plans with those of PlatinumTel is similarly improper and misleading. According to Q Link it does not assess an additional charge (on top of airtime) on directory assistance call. Staff Ex. 2.0 at 59 and fn. 178. In the attempt to argue that its proposed free Lifeline plans are better than free Lifeline plans of some ETCs in Illinois, Q Link compares its additional charge for directory assistance call of \$0 with the additional charge assessed by PlatinumTel, which is \$0.50 (the equivalent of 10 voice minutes) without taking into account other key differences between its Lifeline plans and that of PlatinumTel. <http://www.carewireless.com/about>; Appendix 2.2. Based upon this, Q Link claims that it offers a benefit of no additional

charge for directory assistance call that is not offered by PlatinumTel. Q Link's comparison and conclusion are misleading because they ignore other crucial differences between Q Link's proposed free Lifeline plans and PlatinumTel's free Lifeline plan. In particular, they ignore the fact that Q Link provides 250 (or fewer) voice minutes in its free Lifeline plans, while PlatinumTel provides 300 voice minutes in its free Lifeline plan. Unless a customer makes five or more directory assistance calls each month, PlatinumTel's Lifeline plan would be a better option for the customer (compared to Q Link's 250-Minute Plan); the additional voice minutes included in PlatinumTel's free Lifeline plan would more than offset the "advantage" of Q Link's "no additional charge." Q Link has provided no evidence that there is any demand, let alone a demand for five or more directory assistance calls each month, among Illinois low income consumers. As a result, it has not shown that its free Lifeline plan with no additional charge for directory assistance calls would represent a better option than PlatinumTel's free Lifeline plan with 300 minutes and \$0.5 for directory assistance call.

As evidence that it should be designated as an ETC, Q Link asserts that it seeks designation in areas not included in Tracfone's ETC service area ("Q LINK requests ETC service designation in wire center areas covered by Sprint PCS, one of the few underlying providers not constituting Tracfone's ETC service area"). Q Link Ex. 2.0 at 29. Q Link's assertion is erroneous and refuted by the Commission:

IT IS THEREFORE ORDERED that Tracfone Wireless, Inc. is hereby designated, effective as of the date of this Order [September 10, 2009], an Eligible Telecommunications Carrier for purposes of receiving federal low-income Lifeline Universal Service support from the Federal Universal Service Fund throughout Illinois. Tracfone ETC Order at 23, Docket No. 09-0213.

Further, the Commission has designated multiple wireless carriers as ETCs for the purpose of receiving low-income Lifeline support for all of

Illinois, including Tracfone, PlatinumTel and YourTel. USCOC ETC Order at 4, Docket No. 12-0480.

The fact that Tracfone does not provide wireless service using Sprint's wireless network does not mean that Tracfone does not provide wireless service in the wire centers included in Q Link Ex. 2.1. Q Link is wrong in the claim that its proposed ETC service area is not included in Tracfone's ETC service area, because Tracfone's ETC service area includes all of Illinois.

Q Link asserts that its proposed Lifeline plans are similar to Tracfone's prepaid wireless Lifeline plans. Q Link Ex. 3.0 at 3. Q Link thus admits that low income consumers in Tracfone's ETC service area already have available to them in the marketplace benefits that Q Link's proposed Lifeline plans would produce. As Tracfone is designated as an ETC throughout Illinois, low income consumers throughout Illinois already have available to them in the marketplace benefits that Q Link's proposed Lifeline plans would produce. This proves that there is no incremental benefit to low income consumers from Q Link's ETC designation in Illinois.

Q Link claims that "Staff argues that any new entrant must offer unsupported features or services that are different and non-trivial than prior those of earlier market entrants to result in consumer benefits in the marketplace" (emphasis added). Q Link Ex. 2.0 at 31. The claim is erroneous. To be clear, Staff does not recommend that the Commission impose any requirement on any wireless market entrant in addition to obtaining a certificate of service authority as required by the Illinois Public Utility Act. Q Link does not seek an entry permit in this proceeding to enter the Illinois market, which it already has, pursuant to which it is and has been for the past two years free to enter the Illinois market to provide wireless service. The Commission's Lifeline-only ETC

designation does not grant a carrier an entry permit to enter the Illinois market; instead, it grants a carrier access to Lifeline subsidies targeted to low income consumers. As explained by Staff, Lifeline support is not a form of corporate welfare. Staff Ex. 1.0 at 48-51. The Commission's Lifeline-only ETC designation should not be used as a carrier entry vehicle to engineer market entry of a carrier that would not otherwise have entered the Illinois market; instead, it should, as proposed by Staff, seek to designate a carrier that has created a track record in Illinois and has established, based upon its Illinois record, that it is able to compete for wireless end user customers without access to Lifeline subsidies. Staff Ex. 1.0 at 23-24, 28-31 and 48-51; Staff Ex. 2.0 at 20-21.

Moreover, the requirement that “any new entrant must offer unsupported features or services that are different and non-trivial than prior those of earlier market entrants to result in consumer benefits in the marketplace” (emphasis added) is not a requirement proposed by Staff. What Staff has stated is that, if Q Link is to rely on its unsupported services to meet the Illinois consumer benefit evaluation, it, at minimum, has the burden of proof to show that its unsupported services will produce incremental benefits to consumers. Staff does not propose that Q Link rely upon its unsupported services to meet the Illinois consumer benefit evaluation. On the contrary, as discussed earlier, as Q Link seeks designation for the purpose of offering supported services to low income consumers, Q Link should satisfy the Illinois consumer benefit evaluation primarily through the supported services it proposes to offer to low income consumers in Illinois. Staff Ex. 2.0 at 59-60.

3. Misrepresenting Lifeline Program Performance Goals and Measurement

In the attempt to show that its designation will produce public interest benefits, Q Link claims that Illinois ETCs “are not meeting the Lifeline program’s goal to serve all eligible consumers” in Illinois, thus implying that the performance goal of the Lifeline program is to achieve full Lifeline penetration. Q Link Ex. 3.0 at 1; Q Link 2.0 at 29-30. Q Link provides no citation to the FCC Order or Rule prescribing such a performance goal. In its Lifeline Reform Order, the FCC set its low income program’s performance goals as: ensuring the availability of quality services at affordable prices and minimizing the contribution burden on consumers and businesses that fund the federal low income program; to measure progress towards the former, the FCC adopted telephone penetration of low income households (which refers to the percent of low income households with telephone service), not Lifeline penetration of low income households (which refers to the percent of low income households receiving Lifeline discount off their telephone service), as the performance measurement for its low income program. Lifeline Reform Order ¶¶24-43.

Telephone penetration of low income households differ greatly from Lifeline penetration of low income households in Illinois. According to Q Link, the Lifeline penetration of low income households in Illinois is 46%. Q Link Ex. 3.1. According to US Census Bureau estimates, there are approximately 4,836,972 households in Illinois. <http://www.census.gov/prod/cen2010/briefs/c2010br-14.pdf>, Table 4 titled “Households and Families for the United States, Regions, States, and for Puerto Rico: 2000 and 2010.” According to the FCC, approximately 95.8% of Illinois households have telephone service. <http://transition.fcc.gov/wcb/iatd/monitor.html>, December 2013 Monitoring Report, Table 3.8 titled “Household Telephone Penetration by State and

Income, 2013.” Thus, there are approximately 203,153 households in Illinois without telephone service and 4,633,819 households in Illinois with telephone service. However, not all the 203,153 Illinois households without telephone service qualify for Lifeline support, because household telephone penetration is less than 100% across all income categories in Illinois. Id. Therefore, the telephone penetration of low income households in Illinois exceeds 86%; in fact, according to FCC, telephone penetration of households in Illinois exceeds 90% across all income groups. Id.

Clearly, the telephone penetration of low income households in Illinois, which exceeds 90%, is very different from the Lifeline penetration of low income households in Illinois, which is, according to Q Link, 46%. Q Link is wrong in claiming that the Lifeline program’s performance goal is to achieve full Lifeline penetration (“to serve all eligible consumers”), and wrong in implying that the Lifeline program currently fails 54% of low income households in Illinois or is short of its performance goal by 54% of low income households in Illinois.

Q Link has also inflated the number of low income households in Illinois that do not receive Lifeline discount off their telephone services. According to Q Link Ex. 3.1, the number of Illinois households receiving Lifeline support is 669,536 and the number of Illinois households eligible for Lifeline support is 1,466,400. This means that the number of Illinois households eligible for Lifeline but that do not receive Lifeline support is 796,864. But, Q Link claims that the number of eligible households in Illinois that do not receive support is over 864,000. Q Link Ex. 2.0 at 29-30. Therefore, Q Link has inflated the number of eligible Illinois households that are not on Lifeline rolls.

4. Failures to Act in a Manner Consistent with the Public Interest

Q Link has repeatedly failed to act in a manner consistent with the public interest. Aside from misrepresenting the FCC's rule to consumers, it has failed to make a basic effort to ensure that its websites would not mislead consumers. As a result, consumers in states in which it is not an ETC would be and may have been misled to waste time and effort preparing applications for services it has no authority to offer, and in the process, to divulge personal information under a mistaken belief. Staff Ex. 1.0 at 89-93; Staff Ex. 2.0 at 78-80; Staff Ex. 2.15a-d. Shortly after this was brought to its attention, Mr. Asad issued a letter attesting that the problem was fixed (“[the problem] was fixed on the evening of Friday, July 26, 2013 immediately after the Company became aware of the problem”). Staff Ex. 1.0 at 90. Mr. Asad reiterated such claim in his Rebuttal Testimony. Staff Ex. 2.0 at 78-79. Contrary his claims, Q Link did not fix the website problem immediately after it was brought to its attention (i.e., July 26, 2013). In fact, it did not fix the problem three weeks after it claimed the problem was fixed; as illustrated by Staff, its online enrollment and “download application” websites continued to mislead consumers as of July 31, 2013 and as of August 20, 2013. Staff Ex. 1.0 at 92-93; Staff Ex. 2.0 at 78-79; Staff Ex. 2.15a-d.

Not only was the claim that it fixed the “dropdown menu” problem on its “download application” website untrue as of August 20, 2013, but it remained untrue as of January 30, 2014 and continued to be as of April 29, 2014. Instead of fixing the “dropdown menu” problem, what Q Link did after August 20, 2013 was to disable the “download application” website and deny consumers access to this website. Up to August 20, 2013, consumers were able to access the “download application” webpage (where a prospective Lifeline customer can select its residence state from the ETC state

dropdown menu and then download a Lifeline application via the state-specific link appearing upon selection of residence state) by clicking the “Download Application” link at the bottom of the homepage (<https://www.qlinkwireless.com>) or by directly inputting the “download application” webpage address (<http://qlinkwireless.com/download-application.aspx>). Staff Ex. 1.0 at 89-93; Staff Ex. 2.15a-b. As of January 30, 2014, consumers were no longer able to access the “download application” webpage. Staff Ex. 2.0 at 80 and fn. 242. In fact, the “download application” webpage remains disabled and consumers remain unable to access the “download application” webpage as of April 29, 2014.⁹ Appendix 3.1; Appendix 3.2; Staff Ex. 2.15a-b. Therefore, Q Link’s claim that it fixed the “dropdown menu” problem was untrue on July 31, 2013 when it made the claim; it was untrue on August 20, 2013; and it remains untrue as of April 29, 2014: denying consumers access to the “download application” webpage does not qualify as fixing the “dropdown menu” problem on this webpage.

Q Link also claims that it “has always been ready, able and willing to make the necessary effort to protect consumers’ interest.” Staff Ex. 2.0 at 79-80. Such claim has been undermined by its failures to make a basic effort to ensure that its websites would not mislead consumers; by its conduct after the website problem was brought to its attention (i.e., instead of fixing the problem, it repeatedly and erroneously claimed that the problem was fixed); by its failure to fix the “dropdown menu” problem on its

⁹ Instead of leading to the “download application” webpage (Where a customer can select its residence state from the ETC state dropdown menu and then download a Lifeline application via the state-specific link appearing upon selection of residence state) as they used to, both the “Download Application” link and “download application” webpage address (<http://qlinkwireless.com/download-application.aspx>) lead to a different webpage, Q Link’s online enrollment webpage (<https://qlinkwireless.com/register/default.aspx>). Appendix 3.1; Appendix 3.2.

“download application” webpage more than nine months after it claimed the problem was fixed; and last but not least by misrepresenting the FCC’s rule to consumers. Id.

5. Summary

In sum, Q Link has failed to establish that its designation as an additional ETC will produce any nontrivial, concrete additional benefits to consumers and benefits that are currently unavailable to consumers in the marketplace in its proposed ETC service area in Illinois. The record evidence demonstrates that Q Link repeatedly failed to act in a manner consistent with the public interest. Therefore, the Commission should find that Q Link has failed to meet the Illinois consumer benefit requirements and accordingly deny its ETC petition.

I. Additional Commitments

Q Link made numerous commitments on pages 17-24 of its Amended Petition. Staff Ex. 1.0 at 67. A carrier making meaningful, voluntary commitments should be given extra credit toward an affirmative finding for going the extra mile, but Q Link does not deserve such credit because its 8 single-spaced pages of pledges do not commit it to much beyond what are already required of ETCs. Staff Ex. 1.0 at 67-72.

A commitment entails more than a promise stated in the petition. It requires, at minimum, an understanding of the specifics the commitment entails and a determination of how it is going to meet the commitment. While pronouncing numerous commitments in the attempt to gain ETC status, Q Link has not shown that it is willing or able to fulfill them. For example, while pledging to provide with the Amended Petition an exchange based identification of its proposed ETC service area, it provided with the Amended

Petition a wire center based identification of its proposed ETC service area.¹⁰ Staff Ex. 2.0 at 6-7. According to the Company, it has never intended to fulfill the pledge of providing with the Amended Petition an exchange based identification of its proposed ETC service area and, instead, it has always intended to do otherwise or to provide with its petitions a wire center based identification of its proposed ETC service area (“Q Link’s applications [i.e., Original Petition and Amended Petition] make clear that it is proposing its ETC service area on the basis of wire center area designations”). Q Link Ex. 2.0 at 6. This calls into questions the credibility of the commitments Q Link makes in the attempt to gain ETC status.

Q Link also promised in the Amended Petition to provide prospective Lifeline customers a Service Description explicitly stating “all rates (recurring and non-recurring) before application of Lifeline discount for each of its wireless voice plans” and “the amounts (\$) of Lifeline benefits.” Staff Ex. 1.0 at 70. The Service Description provided in response to Staff DR-3.09 to show compliance reveals, instead, noncompliance with this commitment; for example, the Service Description does not state the rates before the application of Lifeline discount for any of its wireless voice plans, which should be \$9.25, or the dollar amount of Lifeline benefit, which should be \$9.25. Id. The Company asserts In its Surrebuttal Testimony that it has updated its Service Description in response to Staff’s concern, but has provided absolutely no evidence to support such assertion. Q Link Ex. 2.0 at 34. It had opportunities to provide a revised response to

¹⁰ The term “exchange-based identification” of proposed ETC service area refers to the identification of proposed ETC service area by exchange (i.e., identification of each exchange in which a carrier seeks designation and the ILEC operating in the identified exchange). Staff Ex. 1.0 at 18-20; Staff Ex. 2.0 at 2-3. What Q Link pledged to provide under Part A of Condition 5 on page 17 of its Amended Petition is precisely what Staff refers to as an exchange-based identification of its proposed ETC service area.

Staff DR-3.09 to address issues raised in Staff's Direct Testimony, but it has failed at each such opportunity. For example, on March 7, 2014, it provided revised responses to numerous Staff DRs, but a revised response to Staff DR-3.09 is not among them. As a result, the only Service Description in the record Q Link has provided to show compliance reveals, instead, noncompliance with its commitments. This again calls into question the credibility of the commitments Q Link makes in the attempt to gain ETC status.

Therefore, contrary to its claim, Q Link has not shown a good faith effort in making commitments and, as a result, the Commission should not rely upon its promises and assertions in determining its ETC designation. See, generally, Staff Ex. 1.0 at 67-72; Staff Ex. 2.0 at 72-77.

J. Miscellaneous

Q Link has made erroneous assertions in this proceeding. As an example, Q Link accuses Staff of attempting "to question [Mr. Asad's] truthfulness" based upon "Staff's incorrect assertion" that Q Link's services, aside from its primary activity, are wholesale prepaid calling card services. Q Link Ex. 2.0 at 26. However, it was Mr. Asad that unequivocally stated to Staff, that the only services, aside from its primary activity of providing wireless services to Lifeline consumers, are "wholesale prepaid calling cards services." Staff Ex. 2.06. Based upon this information Mr. Asad provided at the time, Staff correctly concluded that the *XXXXXXXX* wholesale revenue Q Link claims on its Income Statements is from its wholesale prepaid calling cards services. Staff Ex. 2.0 at 45. Staff did not make any assumption about Q Link's revenue but made a finding based upon information Mr. Asad, provided.

As another example, Q Link erroneously claims that wire centers represent smaller geographic areas than exchanges. Q Link Ex. 2.0 at 2-3, 5 and 19. While it is generally true in rural areas of Illinois that each exchange is served by one or more wire centers and each wire center serves only one exchange, it is not true for many wire centers and exchanges in non-rural areas of Illinois. As explained by Staff, wire centers and exchanges in Illinois do not always have such a neat relationship; wire centers may be identical to, encompass (or be encompassed by), or bifurcate (or be bifurcated by) the associated exchanges. Staff Ex. 2.0 at 8 and fn. 16. In other words, an exchange may be served by one or more wire centers and a wire center may serve one or more exchanges. As a result, not every exchange contains one or multiple wire centers. For example, the Brookfield exchange contains less than, or only a portion of, one wire center. Staff Ex. 2.0 at 18; Staff Ex. 2.03c (LaGrange WC Map); Q Link Ex. 2.1. Therefore, Q Link's claim that wire centers in Illinois represent the smaller geographic areas than exchanges is not true for many wire centers and exchanges in Illinois.

K. Inability to Provide Consistent and Credible Information

As described above, a petitioner has the burden not only to provide information but to provide accurate and correct information, based upon which Staff and intervening parties perform analyses and make recommendations to the Commission. A carrier's inability to provide consistent and credible information indicates, at a minimum, that information it provides is not reliable. The Commission should not grant a carrier's petition based upon such unreliable information. As discussed throughout Staff's IB, Q Link has repeatedly demonstrated its inability to provide consistent and credible information, some of which are described below.

Wireless Service Authority Information:

▪ Q Link stated in its July 29, 2013 response to Staff DR-3.03B that the geographic area for which it sought a certificate of wireless service authority on its Wireless Certificate Application in Docket No. 11-0739 excludes seven AT&T Illinois wire centers which it identified in Attachment 3.03B. Staff Ex. 1.2. Based upon this information, Q Link is seeking ETC designation where it has not sought and thus does not have authority from the Commission to provide wireless services. After Staff identified this issue, Q Link, in its Surrebuttal Testimony, asserted that its July 29, 2013 response is incorrect and, instead of excluding them, its requested service area specified on its Wireless Certificate Application includes the identified AT&T Illinois wire centers. Staff Ex. 1.0 at 41-42; Staff Ex. 2.0 at 12-13; Q Link Ex. 2.0 at 9-10. Thus, Q Link's identification of its authorized wireless service area has been inconsistent in this proceeding.

ETC Service Area Information:

▪ Q Link has been unable to consistently and accurately describe the overall geographic area for which it seeks ETC designation and has provided conflicting descriptions of the overall geographic area in which it seeks designation. Staff Ex. 1.0 at 44-46; Staff Ex. 2.0 at 11-12.

Wholesale Service Information:

▪ Q Link stated in its January 17, 2014 response to Staff DR-5.07 that, aside from its primary activity of providing wireless services to Lifeline customers, the only services it offers are wholesale prepaid calling cards services. Staff Ex. 2.06. Based upon this information, the wholesale services it claims to offer are wholesale prepaid calling cards

services and the *XXXXXXXXXX* wholesale revenue it claimed it produced in 2012 is revenue from wholesale prepaid calling cards, which is subject to federal universal service fund contribution. In its Surrebuttal Testimony, Q Link attempted to withdraw its prior statement (identifying its wholesale services as prepaid calling cards services); it asserted that it does not provide prepaid calling cards services and it, instead, provides wholesale wireless services. Q Link Ex. 2.0 at 26. Thus, Q Link's identification of its wholesale services has been inconsistent in this proceeding.

- Q Link claims in Surrebuttal Testimony that it provides wholesale services to USF contributors and its wholesale services are wireless services. Q Link Ex. 2.0 at 21-22 and 26. As discussed earlier, at least two of the three carriers Q Link claims providing wireless services to have not reported any revenue, and thus have not been FUSF contributors, since 2010, one of which filed for Chapter 7 bankruptcy in January 2008 and the corporate entity of the other was dissolved more than a year ago. The fact that these carriers have not provided wireless services since 2010 refutes Q Link's claim that it has provided wireless services to these carriers during any time period since its incorporation in August 2011.

- Q Link claims in its Surrebuttal Testimony it produced *XXXXXXXXXX* wholesale revenue in 2012 from wireless services (as opposed to wholesale prepaid calling cards services as it has previously identified; Staff Ex. 2.06). Q Link Ex. 2.0 at 22 and 26. But, its wholesale contract with Sprint (the only wireless contract it had with an underlying carrier in 2012) prohibits it from reselling Sprint's wireless services to other carriers and Q Link has made clear that it does not resell Sprint's wireless services to

other carriers. Response to Staff DR-2.02 and Response to Staff DR-5.09, Staff Group Cross Ex. 3. This refutes Q Link's claim that it produced the *XXXXXXXXXX* wholesale revenue ("wholesale carrier revenue") in 2012 from wireless services provided to FUSF contributors.

Revenue Information:

- From Table 1 (Summary of Q Link Revenues), while claiming in this proceeding that it produced *XXXXXXXXXX* revenue in 2012 from sources other than universal service support (i.e., non-USF revenue), it represented to the FCC, on its original as well as revised revenue reports, that it produced *XX* non-USF revenue in 2012 and relied exclusively on universal service support for its revenue in 2012. These claims are inconsistent and one or both are inaccurate.
- From Table 1 (Summary of Q Link Revenues), Q Link provided three different USF revenue amounts for 2012 on three different occasions (Income Statements, original revenue report, and revised revenue report). These claims are inconsistent and one or two or all three are inaccurate.

As the petitioner seeking designation, Q Link has the burden not only to provide information but to provide accurate and correct information. As these examples illustrate, the information provided by Q Link is inconsistent and inaccurate and cannot be relied upon to assess its petition. This, by itself, is reason that the Commission should deny Q Link's ETC petition.

L. Summary of Staff Findings

In order to be designated as an ETC in Illinois, Q Link has the burden of proof to demonstrate that it meets Section 214(e)(2) requirements in Illinois and that its designation is consistent with the public interest, convenience and necessity. Q Link has failed to meet that burden. Staff's Section 214(e)(2) evaluation of Q Link's ETC petition as discussed above is summarized as follows:

- Q Link has failed to properly identify its proposed ETC service area.
- Q Link has established its inability to comply with Section 214(e)(1) requirements.
- Q Link has failed to meet Section 54.201(h) requirements.
- Q Link has repeatedly failed to act in a manner consistent with the public interest.
- Q Link has failed to establish that its designation as an additional ETC will produce concrete additional benefits to consumers and, therefore, the public interest benefits in Illinois.
- Q Link has failed to comply with the FCC's rules.
- Q Link has failed to establish that it is able to comply with Commission rules.
- Q Link has failed to establish that it is able to meet its wireless 9-1-1 surcharge obligation.
- Q Link has not provided consistent and credible information.

Each of the above findings is sufficient to support the conclusion that Q Link does not meet Illinois Section 214(e)(2) requirements and its designation is not consistent with the public interest, convenience and necessity.

IV. Conclusion

WHEREFORE, for all of the reasons stated above, Staff recommends that the Commission deny Q Link's application for ETC designation.

Respectfully submitted,

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