

**DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA**

IN THE MATTER OF the Investigation into)	
Improving Transparency, Fostering Accountability,)	REGULATORY DIVISION
and Maintaining Quality Services for)	
High Cost Support and Lifeline Services in Montana)	DOCKET NO. N2017.10.82

COMMENTS OF COMMNET WIRELESS, LLC

Commnet Wireless, LLC, on behalf of itself and its various carrier subsidiaries (collectively, “Commnet”), hereby submits these Comments in response to the *Notice of Investigation and Opportunity for Comments* (“Notice”) issued November 9, 2017, by the Montana Public Service Commission (“MPSC”) in the above-referenced docket. Commnet applauds the MPSC for initiating this docket.

Commnet is the main domestic wireless telecommunications subsidiary of ATN International, Inc., a publicly-traded company with operations in several industries, both in the United States and abroad, including telecommunications. Commnet was a pioneer in bringing wireless telecommunications to rural areas across the United States, including the most remote and otherwise underserved communities, including many impoverished tribal areas. Today, Commnet operates over four hundred cell sites across the western United States, including Montana, serving thousands of wireless users.

In the December 2013 Commnet ETC Designation Order, the Commission conditionally granted Commnet as an ETC on the Northern Cheyenne Reservation.¹ Commnet’s ETC designation was conditioned upon Commnet winning Tribal Mobility Funds and limited to the two census tracts that make up the Northern Cheyenne Reservation. One census tract is located

¹ Final Order No. 7319, *In the Matter of the Application of Commnet Wireless LLC for Conditional Designation as an Eligible Telecomm. Carrier for Purposes of Participating in the Tribal Mobility Fund Phase I Auction (“December 2013 Commnet ETC Designation Order”)*, Docket No. D2013.11.80.

in Big Horn County and the other is located in Rosebud County. Commnet was the winning bidder and successfully secured funds to build out the census tract in Rosebud County through the Tribal Mobility Fund. With the assistance of Tribal Mobility Funds, Commnet has since deployed a wireless network consisting of 4 cell sites in this census tract and recently opened a tribal wireless agent location in Lame Deer.

Commnet was not successful in securing funds to build out the census tract in Big Horn County through the Tribal Mobility Fund. However, after consultation with the Tribe, Commnet made the decision to invest private capital to extend its network to Big Horn County. As a result, Commnet has deployed a wireless network, utilizing private capital, and currently offers 3G mobile voice and broadband service in Big Horn County where service did not previously exist. Commnet currently has a pending application with the MPSC for designation as a Lifeline ETC in Big Horn County so that eligible local residents in the area can subscribe to its wireless service and enjoy the benefits of wireless service for the first time.²

I. The MPSC should mirror the Federal Communication Commission’s requirements for designating ETCs and should not change its existing recertification processes.

The Federal Communications Commission (“FCC”) has established a process for designating ETCs as defined in 47 CFR 54.201-202. In its Universal Service Order dated March 17, 2005³, the FCC encouraged states that exercise jurisdiction over ETC designations to adopt its requirements when deciding whether a common carrier should be designated as an ETC. It went on to say that, the application of a common set of requirements by the FCC and state commissions will provide a more predictable designation process and improve the sustainability

² *In the Matter of the Application of Commnet Wireless LLC for Conditional Designation as an Eligible Telecomm. Carrier*, (filed June 6, 2017).

³ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (rel. March 17, 2005) (“Universal Service Order”).

of the universal service fund.⁴ Furthermore, the FCC expends significant time and resources to ensure its rules and the application of those rules are both current and effective as the universal service programs evolve. By adopting the rules set forth in 47 CFR 54.201-202, the MPSC is alleviated of the heavy burden of evaluating and modifying its rules, and can instead utilize the resources the FCC expends on this effort.

In regards to the MPSC ETC recertification process, it is Commnet's position that the MPSC should not amend its rules, and instead should keep with its proven-effective processes. The existing rules set forth in ARM 38.5.3209 and 38.5.3218 provide a straightforward process by which ETCs may be recertified annually. The MPSC rules are satisfied by an ETC filing a sworn Affidavit verifying compliance with FCC rules, and a statement that the ETC shall use all funds "only for the provision, maintenance, and upgrading of facilities and services for which support is intended".

Moreover, competitive ETCs that are recipients of support through the Mobility Fund are required to file the FCC Form 690 annually with the Universal Service Administrative Company (USAC), and ETCs receiving Lifeline funds are required to submit the FCC Form 481 annually with USAC. A copy of both forms are submitted to the FCC and the MPSC. Through these forms, the ETC submits financial, operational and coverage information that is used to validate the ETCs use of support from the High Cost funding mechanism and/or the Lifeline support mechanism and compliance with applicable requirements. Furthermore, Lifeline support recipients are subject to the Beneficiary and Contributor Audit Program (BCAP) and Payment Quality Assurance (PQA) Program audits. Because ETCs undergo scrupulous review at both the

⁴ Universal Service Order at ¶ 1

Federal and State level, there is no need for the MPSC to expend additional resources and assert new requirements for the annual recertification process.

II. The MPSC should maintain its jurisdiction over the ETC designation process.

Montana Code Annotated §69-3-840 authorizes the MPSC to designate telecommunications carriers as eligible for federal universal service support, in accordance with 47 U.S.C. 2014(e)(1) and 47 U.S.C. 254. The MPSC should not waive its jurisdiction over this process, so long as it acts on the applications in a timely manner. Commnet believes the process can be made more efficient and the MPSC should amend its rules to include the addition of a 90-day time limit by which it should review and make a decision on unopposed ETC designation applications. By delaying these applications and extending the designation process, the MPSC is putting the citizens of Montana at a disadvantage.

The MPSC owes a duty to the people of Montana to timely review and decide unopposed ETC designations. Montana consumers pay into the federal universal service fund, regardless of whether the MPSC designates carriers as ETCs. It is incumbent on the MPSC to ensure its consumers receive the benefits of the fund that they pay into. ETCs use funding from the universal service fund to offer services at a reduced rate and invest in new and upgraded facilities, but carriers cannot do this without first being designated an ETC by the MPSC. Without the MPSC exercising its authority to grant ETC applications in a timely manner, the funds that Montanans pay into the universal service fund are directed to telecommunication services in other states.

III. ETC program subsidies do not inhibit effective buildout of rural, insular or high-cost areas.

High Cost universal service funds are awarded to competitive ETCs to deploy facilities in areas where the incumbent has turned down universal service support, or where the FCC has

determined there is no unsubsidized provider provisioning service. In other words, the funds are awarded to ETCs to deploy telecommunications facilities in areas where commercial providers have established there is no business case to deploy facilities, and without universal service funds, would remain unserved.

The FCC awards funds to these areas in the most efficient way. The reverse auction support regime utilized by the FCC is based on promoting operating efficiencies, and getting the most “bang for the buck”. In these reverse auctions, the FCC announces that a specific sum of support money is available for a specific purpose (for example, providing mobile voice and broadband service along remote roadways where there is no unsubsidized wireless carrier in operation, or providing fixed broadband service to areas where the residents have no connection to the internet). The FCC also announces (after a process involving public input) which census blocks around the country are completely unserved and therefore eligible to be served via the auction. Carriers then bid, promising to serve this or that specific area, in return for a specific amount of support dollars.

The FCC then ranks the various bids based on how many unserved people or fixed locations will have service available (or, in the case of Mobility Fund I, how many unserved road-miles will become road-miles with service available) per dollar of support money. The FCC moves down the rankings, and awards the support money to those carriers providing the most new service for the least government subsidy, until all of the money is awarded. The result is that inefficient carriers get no money.

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IV. The MPSC should support the FCC’s proposal to limit Lifeline funds to facilities-based carriers.

With regard to the current Lifeline proceeding⁵, the MPSC should support the FCC’s initiative to limit Lifeline funding to facilities-based carriers. Channeling Lifeline funds to facilities-based carriers will allow those carriers to reinvest in their networks, supporting customers and helping further bridge the digital divide in unserved and underserved areas. In contrast, the distribution of Lifeline funds to support providers of resale service fails to achieve the goal of promoting additional broadband deployment – as resellers are confined to the existing networks upon which they resell. Directing funding in this fashion actually has the perverse effect of negatively impacting the deployment of broadband service, as customers of resellers diminish the business case of those providers actually willing to invest in the building of networks.

Additionally, should the MPSC support the FCCs proposal to cap Lifeline funding it should advocate for prioritization in the following order: (1) rural Tribal lands, (2) Rural areas with above average poverty, (3) other Rural areas, and (4) all other areas. This prioritization would ensure that the most-needy areas receive this critical funding.

V. Conclusion

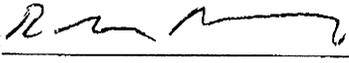
Commnet appreciates the MPSC’s continuing effort to evaluate its ETC designation processes and to ensure that universal service funds are utilized in an efficient manner. The MPSC should continue to exercise this jurisdiction to ensure Montanans are receiving their fair share of universal service funds.

⁵ *Bridging the Digital Divide for Low Income Consumers, et al.*, WC Docket Nos. 17-287, 11-42 and 09-197, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 17-155 (rel. Dec. 1, 2017).

Respectfully submitted,

Commnet Wireless, LLC

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By: 

Rohan Ranaraja
1001 Technology Dr., Suite 202
Little Rock, AR 72223