

October 9, 2023

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. P6883/M-23-383

Dear Mr. Seuffert:

Attached are comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

IN THE MATTER OF A REVIEW OF Q LINK WIRELESS ETC STATUS

The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/LISA GONZALEZ
Rates Analyst

/s/ARIELLE TIAMIYU
Rates Analyst

/s/LOUISE MILTICH
Assistant Commissioner

LS/AR/LM/ar
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket Nos. P6883/M-23-383

I. BACKGROUND

Q Link received its Eligible Telecommunications Carrier (“ETC”) designation in Minnesota ten years ago¹ as a mobile Lifeline-only provider.

In Minnesota, Q Link serves more mobile Lifeline customers than any other ETC. For the past five years, the Company has received the following in Lifeline credits²:

Year	Q Link Credits	Total for All MN Lifeline Providers
2022	\$2,273,208	\$5,768,152
2021	\$3,238,437	\$6,529,173
2020	\$3,908,386	\$7,745,689
2019	\$4,134,382	\$8,545,419
2018	\$3,772,957	\$9,798,059

Table 1: Q Link Lifeline credits in MN

By contrast, in 2021, the mobile Lifeline-only ETC with the second most Lifeline credits in Minnesota, Assurance Wireless, received \$760,786.³ As explained further below, Q Link’s Lifeline funding is larger than the Gas Affordability Program funding for all MN gas utilities except one.

Overview of Recent Administrative Actions in other States

One way the Commission reviews ETC performance is to see if any adverse administrative actions have been taken by other jurisdictions. Below, the Department outlines a series of administrative actions taken by other jurisdictions, most recently by the FCC in July of this year. The pattern of continued problems leads the Department to recommend that the Commission direct Q Link to provide an explanation on its ability to provide Lifeline in Minnesota.

¹ In the Matter of the Petition of Q Link Wireless LLC for Designation as an Eligible Telecommunications Carrier in Minnesota, Docket No. P-6883/M-11-1249, Order Granting ETC Designation with Conditions, issued March 18, 2013.

² See <https://opendata.usac.org/Lifeline/Lifeline-Disbursements-Tool/rink-mije>

³ See Annual Certifications Related to Eligible Telecommunications Carriers’ (ETCs) Use of Federal Universal Service Support, Docket No. P999/PR-22-8, Comments of the Minnesota Department of Commerce, Sept. 26, 2022, p. 19.

A. *Q LINK'S PROBLEMS IN OTHER STATES*

New Mexico and California

In New Mexico, Q Link applied for ETC designation in 2012 but the Company eventually chose to withdraw its application without prejudice in 2019. During the review process, the New Mexico Public Regulation Commission ("NMPRC") staff discovered that Q Link had been denied ETC designation twice in California, which it did not disclose to the NMPRC. California Public Utilities Commission's ("CPUC") reasons for denial, as described in the draft resolution included:

(1) demonstration of a pattern of providing misleading, incomplete, and false information; (2) misrepresentation of information on its CPUC WIR application; and (3) deficiencies in its federal Lifeline enrollment procedures. This draft resolution further finds that Q LINK's managing members have shown repeated patterns of providing misleading information and providing inconsistent answers to multiple state Commissions.⁴

NMPRC also discovered that Q Link withheld complete and accurate information about the company leadership and its principals, in part because the Company did not disclose that its managing member faced a serious criminal charge in Florida.⁵ NMPRC staff learned about the charges on the evening of an Open Meeting in which Q Link was to be considered for ETC designation. The meeting was cancelled, and the docket stood idle for 2 ½ years until Q Link sought designation without prejudice in 2017.

When the vetting process began again, NMPSC staff found that Q Link answered questions about the criminal charges with "Misleading and inconsistent statements and non-responsive replies to staff inquiries."⁶ Q Link further aggravated the process when it blamed NMPSC staff for the 2 ½ -year gap that commenced when Q Link's owner was distracted with his criminal defense.

Eventually, the NMPSC refused to grant Q Link an ETC designation.⁷

B. *Q LINK'S PROBLEMS WITH FEDERAL PROGRAMS AND SECURITY CONCERNS*

On January 13, 2023, the FCC released a Notice of Apparent Liability for Forfeiture and Order⁸ ("NAL") for violations related to the Emergency Broadband Benefit ("EBB") Program and the Affordable Connectivity Program ("ACP"). According to the NAL, Q Link overclaimed support for thousands of

⁴ See New Mexico Public Regulatory Commission's February 21, 2021 ORDER RECOMMENDING DISMISSAL OF PROCEEDING WITH PREJUDICE in Case No. 12-00389-UT, pg 25.

⁵ Id. at p. 5.

⁶ Id.

⁷ While the NMPSC's decision was issued "with prejudice," the State Supreme Court determined that the agency did not have the authority to deny Q Link the ability to obtain ETC designation forever.

⁸ *In the Matter of Q Link Wireless LLC*, File No.: EB-IHD-21-00032347, NAL/Acct. No.: 202332080002, FRN: 0021593975, Notice of Apparent Liability for Forfeiture and Order, Adopted January 13, 2023, Released January 17, 2023, <https://www.fcc.gov/document/fcc-adopts-q-link-notice-apparent-liability-ebb-violations> .

computer tablets and “obtained at least \$20,792,800 in improper disbursements from the EBB Program during the period under review.” The FCC proposed a forfeiture penalty of \$62M.⁹ The Company has appealed the decision. FCC staff confirmed the matter is still pending.

Additionally, the FCC investigated a report that Q Link failed to protect the data of their customers. As a result of the investigation FCC found Q Link “willfully and repeatedly violated the law by failing to respond to a Commission order to provide information and documents concerning an alleged security flaw in the Q Link mobile app, which may have permitted unauthorized access to consumer proprietary information.” The company was the subject of a \$100,000 forfeiture.¹⁰

The FCC more recently followed up on this investigation by proposing a \$20 million forfeiture against Q Link in a Notice of Apparent Liability (NAL) adopted July 20, 2023. See FCC File EB-TCD-22-00034450. The FCC press release stated that Q Link’s practices “placed customers’ sensitive personal data at risk.”

C. THE COMMISSION HAS THE AUTHORITY TO REQUIRE MORE REPORTING FROM LIFELINE-ONLY PROVIDERS, BUT CURRENT REPORTING DOES NOT MEET THE SAME THRESHOLD AS OTHER PROGRAMS FOR LOWER INCOME MINNESOTANS.

Congress granted authority to state commissions to designate ETCs in 47 U.S.C. 214(e)¹¹ and went on to state that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support.”¹² Under 47 CFR 54.422, part (c),¹³ all carriers offering Lifeline support, including mobile providers, must file FCC Forms 555 (Lifeline providers) and 481 (Lifeline providers who also accept high-cost funding) with state commissions to assist states as they partner to protect the Lifeline program. The two FCC forms collect financial and operations information used to validate service provider support and reports annual certification results to the FCC.

While Forms 481 and 555 provide data about providers that offer Lifeline, they offer little insight into the corporate principals of the providers who operate in Minnesota. Thus, existing reporting does not give the Department or Commission meaningful insight into Q Link’s current practices in Minnesota.

Minnesota administers other programs to assist lower income Minnesotans with utility billing. To protect potential enrollees and the credibility of various programs, the Commission typically requires companies offering the applicable services to report beyond federal requirements. For example, the Gas Affordability Program (“GAP”), is a PUC approved program that offers credits to assist lower income residents with natural gas billing. Companies must file detailed annual reporting, required by Commission Order.

⁹ Id. at para 2.

¹⁰ *In the Matter of Quadrant Holdings LLC, Q Link Wireless LLC, and Hello Mobile LLC*, File No.: EB-TCD-21-00032935, NAL/Acct. No.: 202232170008, FRN: 0021593975; 0027619089, Notice of Apparent Liability for Forfeiture, Adopted August 5, 2022, Released August 5, 2022, para 2.

¹¹ See <https://rb.gy/cqc8h>

¹² 47 U.S.C. §254(e) <https://rb.gy/e31cb>

¹³ See <https://www.ecfr.gov/current/title-47/chapter-I/subchapter-B/part-54/subpart-E/section-54.422>

Table 2: Comparison of **LIFELINE** VS. GAP in 2021

Company	\$ in Affordability Credits Distributed (2022 program year)	Regular Reporting in Minnesota	Other State Reporting
Center Point Energy (CPE)	\$4,612,392	23-84: annual 43-page report on topics such as: retention rate, renewal, attrition, # of customer complaints and topics, coordination with other resources, promotional efforts, outreach, time to process program applications (some reporting is gas specific and would not transfer to telecom.)	Annual reports come to agenda meeting every year, often with Commissioner feedback on enhanced or clearer reporting for future years. Commissioners also at times require stakeholder groups or specific efforts to work on issues like outreach and increased enrollment, with the regulated companies directed to come back with a report and action plan.
Q Link Wireless	\$3,238,437	23-8: annual FCC Form 555	
Xcel Energy Gas	\$2,143,896	23-82: annual 23-page report evaluating program and utility performance on above topics	
Assurance Wireless	\$760,786	23-8: annual FCC Form 555	
Minnesota Energy Resources Corp. (MERC)	\$341,556.66	23-85: 56-page report, similar to others.	
Great Plains Natural Gas	\$108,311.06	23-83: 31-page annual report evaluating the program.	

As shown in Table 2 above, Lifeline credits in 2021¹⁴ for Q Link far outnumbered credits for GAP funding for three of the state's four natural gas providers, showing the significance of Q Link's presence in the state.

II. RECOMMENDATION: Q LINK SHOULD RESPOND TO CONCERNS REGARDING THE COMPANY'S ABILITY TO SERVE LOWER INCOME CUSTOMERS IN MINNESOTA

Due to recent discoveries regarding Q Link's ETC status denial in New Mexico and California and the recent July 2023 actions at the FCC, it is reasonable to open a comment period and direct Q Link to explain its commitment to providing Lifeline in a transparent, equitable, and compliant manner. The Commission, as the entity tasked with vetting ETC applicants, has the authority to require Q Link to comment on its current status and provide assurances that it operates in the best interest of Minnesota Lifeline customers. The Commission would also gain insight from input of Q Link customers or other entities doing business with Q Link and its company leadership.

Commerce recommends that the Commission issue a Notice of Comment Period requiring Q Link to comment on:

- The ETC designations New Mexico and California
- The FCC Notice of Apparent Liability related to EBB and ACP
- The FCC Investigation and Forfeiture related to the apparent security breach
- Changes the company is implementing to prevent repetition of the above

The notice of comment period should then establish a comment period for any interested party to reply to Q Link's comments. The Commission may also wish to perform customer outreach so that Q Link customers are aware they can contact the Commission's Consumer Affairs Office (CAO).

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Comments

Docket No. P6883/M-23-383

Dated this **9th** day of **October 2023**

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Issa	Asad	reg@qlinkwireless.com	Q Link Wireless LLC	499 E Sheridan St Ste 400 Dania Beach, FL 33004	Electronic Service	No	OFF_SL_23-383_M-23-383
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_23-383_M-23-383
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_23-383_M-23-383
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_23-383_M-23-383
Nicole	Westling	nicole.westling@state.mn.us	Department of Commerce	85 7th Place E Suite 280 St Paul, MN 55001	Electronic Service	No	OFF_SL_23-383_M-23-383