

Staff Briefing Papers

Meeting Date	April 11, 2024	Agenda Item **2
Company	Q Link Wireless LLC	
Docket No.	P-6883/M-23-383	
	In the Matter of a Review of Q Link Wireless ETC Status	
Issues	Should the Commission require Q Link Wireless to file additional annual reporting?	
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✓ Relevant Documents	Date
Department of Commerce – Division of Energy Resources Initial Comments	October 9, 2023
Q Link Wireless LLC Comments	December 27, 2023
Department of Commerce – Division of Energy Resources Reply Comments	March 6, 2024
Q Link LCC Reply Comments	March 22, 2024

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

I. Statement of the Issue

Should the Minnesota Public Utilities Commission (Commission) require Q Link Wireless to file additional annual reporting?

II. Background

The Commission granted Q Link Wireless' (Q Link or the Company) Eligible Telecommunication Carrier (ETC) designation status in March 2013 to offer mobile Lifeline-only service to low-income customers in Minnesota.¹ To offer the Lifeline program, telecommunication companies are required to obtain ETC certification in the state it is operating.

III. Department Investigation

On October 9, 2023, the Department of Commerce (Department) opened an investigation into Q Link's ETC status following ETC designation denials in other states and issues with the Federal Communications Commission (FCC).² Due to these issues (explained in detail below), the Department recommended "that the Commission direct Q Link to provide explanations on its ability to provide Lifeline in Minnesota."³

A. ETC Designations in Other States

1. California

The California Public Utilities Commission (CPUC) denied Q Link ETC designation twice. The CPUC gave the following reasons for denial:

- 1) A pattern of providing misleading, incomplete and false information;
- 2) Misrepresentation on the CPUC's ETC application; and
- 3) Deficiencies in Q Link's federal Lifeline enrollment procedures.⁴

2. New Mexico

In 2012, Q Link applied for ETC designation in New Mexico. During the review process, the New Mexico Public Regulation Commission (NMPRC) discovered Q Link's proceedings with the CPUC. The evening before an Open Meeting wherein Q Link's ETC designation was to be considered, the NMPRC found that Q Link withheld information about a criminal charge in Florida against one of its company's leadership.⁵ The meeting was cancelled, and the docket stood idle for

¹ 11-1249 Commission Order, March 18, 2013, Order Para. 1, p. 5.

² Department initial filing, October 9, 2023, p. 1.

³ Department initial filing, October 9, 2023, p. 1.

⁴ Department initial filing, October 9, 2023, p. 2.

⁵ CBS News article, November 12, 2019. (<https://www.cbsnews.com/miami/news/man-charged-with-groundskeepers-murder/>)

more than two years.

Q Link sought ETC designation again in 2017. NMPRC staff found that when asked about the criminal charges, Q Link answered questions in “misleading and inconsistent statements and non-responsive replies to staff inquiries.”⁶

NMPRC did not grant Q Link an ETC designation, and in 2019, Q Link withdrew its application without prejudice.

B. Investigations by the FCC

1. Customer Data Breach

In August 2022, the FCC investigated a report that Q Link failed to protect customer data. The report concluded that 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.⁷

In the Department’s IR No. 4, Q Link addressed FCC’s inquiry into weaknesses of its system allowing customers to access its account online.

Q Link did not find evidence of a breach of customer [Customer Proprietary Network Information], and neither did the FCC during its investigation. There has been no unauthorized release of consumer data, and thus, **NO** consumer harm.⁸

The Company was charged a \$100,000 penalty.

2. Fraud Investigation

In January 2023, the FCC released a Notice of Apparent Liability for Forfeiture and Order (NAL) for violations by Q Link when offering the Emergency Broadband Benefit (EBB) program and the Affordable Connectivity Program (ACP).⁹ The NAL said that Q Link overclaimed support for computer tablets by at least \$20,792,800. The FCC proposed \$62 million in forfeiture penalties. Q Link has appealed the decision, and the matter is pending.

In the Department’s IR No. 2, Q Link responded, saying that EBB program rules require ETCs to submit reimbursement claims based on the market value of the device. Q Link submitted claims of \$110 per device, and the FCC stated that the value of the tablets Q Link distributed to its

⁶ Department initial filing, October 9, 2023, p. 2.

⁷ Department initial filing, October 9, 2023, p. 3.

⁸ Department reply comments, March 6, 2024, IR No. 4, pp. 2-3. Emphasis from IR.

⁹ Staff notes that the Commission does not regulate the Emergency Broadband Benefit nor the Affordable Connectivity Program, because neither program requires an ETC designation. The Commission does regulate Lifeline.

customers was \$60. FCC provided a list of other comparable devices. Q Link said that they were only available in limited quantities. Therefore, Q Link asked two economic experts to perform analyses on whether the devices in question were indeed worth \$110, and both found that the tablets were worth between \$103 and \$117.¹⁰

In the Department's IR No. 3, Q Link provided the current status of the NAL. Q Link said that the NAL is still pending, and no final adjudication has occurred. Moreover, "even if the FCC issues a final forfeiture order, Q Link would be entitled to a de novo trial on the merits in federal court, at which Q Link and its experts are confident Q Link will prevail."¹¹

C. Commission Authority

While federal law does require ETCs to file two forms annually to the Commission, Form 555 from Lifeline providers and Form 481 from Lifeline providers who also accept high-cost funding, the Department says that "they offer little insight into the corporate principals of the providers who operate in Minnesota."¹²

The Department makes the comparison to other low-income programs that the Commission administers like the Gas Affordability Program (GAP). Outside of CenterPoint Energy's (CPE) GAP, Q Link distributed the most affordability credits in 2022 as compared to the other non-CPE natural gas utilities. The Department says that this demonstrates "the significance of Q Link's presence in the state."¹³ Meanwhile, GAP has more stringent regular reporting requirements as compared to Lifeline providers.

D. Department Recommendation

The Department recommended that the Commission open a comment period to assess whether Q Link acts in the best interest of Minnesota Lifeline customers.¹⁴

The Commission issued a Notice of Comment Period on October 18, 2023 asking Q Link the following questions:

1. Describe the Eligible Telecommunications Company (ETC) designation proceedings in New Mexico and California.
2. Explain the circumstances that led up to the Federal Communication Commission's (FCC) Notice of Apparent Liability related to the Emergency Broadband Benefit program (EBB) and the Affordable Connectivity Program (ACP).
3. Explain the circumstances that led up to the FCC's Investigation and Forfeiture related to the apparent security breach.
4. What changes is Q Link Wireless implementing to prevent repetition of the above

¹⁰ Department reply comments, March 6, 2024, IR No. 2, pp. 2-3.

¹¹ Department reply comments, March 6, 2024, IR No. 3, p. 1.

¹² Department initial filing, October 9, 2023, p. 3.

¹³ Department initial filing, October 9, 2023, p. 5.

¹⁴ Department initial filing, October 9, 2023, p. 5.

situations?

The Notice of Comment also asked all parties the following comments:

- Does Q Link Wireless LLC have the ability to provide Lifeline in Minnesota?
- Should more reporting be required of Q Link Wireless, what metrics should Q Link Wireless report on?
- What action, if any, should the MPUC take regarding this matter?
- Are there other issues or concerns related to this matter?

IV. Party Comments

A. Q Link Comments

Q Link states that it has been designated as an ETC in 37 jurisdictions over the last 12 years without an ETC revocation.¹⁵

1. ETC Proceedings in Other States

In its response to Department IR 1, Q Link laid out the proceedings in which withdrawals occurred in other states, as represented in Table 1:

Table 1: Q Link ETC Withdrawals¹⁶

State	Docket or Case No.	Date of Petition	Date Withdrawn	Reasoning
Massachusetts	DTC 11-18	11/29/2011	9/21/2021	Not pursued due to ACP. Q Link able to offer services through these programs so ETC was not necessary at that time.
Nebraska	C-4690/NUSF-98	6/13/2014	11/13/2014	Not pursued for business reasons.
Oregon	UM 1901	10/4/2017	9/26/2019	Not pursued for business reasons.
California	Advice Letter 10	11/7/2018	8/15/2019	Not pursued due to EBB and ACP. Q Link able to offer services through these programs so ETC has not been necessary.
Nevada	20-02002	2/6/2020	8/26/2020	Expansion approved on 11/6/12.

¹⁵ Department reply comments, March 6, 2024, IR No. 1, p. 2.

¹⁶ Department reply comments, March 6, 2024, IR No. 1, p. 3.

2. Circumstances around the FCC’s Notice of Apparent Liability

Q Link says that FCC’s NAL “reflects a difference of opinion between the Company and the Federal Communications Commission (FCC) regarding a good-faith estimate of the market value of connected devices the Company provided to qualified low-income consumers during the Covid-19 pandemic.”¹⁷

Q Link says that it had to have devices custom-made for the Emergency Broadband Benefit (EBB) and Affordable Connectivity Program (ACP) due to supply chain issues. The Company estimated its devices’ value at \$110. FCC staff disagreed, estimating that the devices were valued at \$60. Q Link submitted expert opinions supporting their \$110 estimate.

The Company says that it is currently “provisionally receiving a reduced reimbursement of a portion of the value of devices it continues to provide, i.e., \$60 rather than the full \$110, while the matter remains pending.”¹⁸

3. Circumstances around the FCC’s Investigation and Forfeiture

Q Link says that the FCC did not assert a third-party breach occurred but did fault Q Link “for account-authentication methods asserted to be insufficiently protective under the FCC’s prophylactic regulations.”¹⁹ The FCC has not made a final action or imposed a penalty.

As indicated above, in response to Department IR No. 4, Q Link addressed FCC’s inquiry into weaknesses of its system allowing customers to access its account online.

Q Link did not find evidence of a breach of customer CPNI, and neither did the FCC during its investigation. There has been no unauthorized release of consumer data, and thus, **NO** consumer harm.²⁰

As indicated above, in response to Department IR No. 3, Q Link provided the current status of the NAL. Q Link said that the NAL is still pending, and no final adjudication has occurred. Moreover, “even if the FCC issues a final forfeiture order, Q Link would be entitled to a de novo trial on the merits in federal court, at which Q Link and its experts are confident Q Link will prevail.”²¹

In addition, Q Link stated Company has “changed its account-authentication methods to disallow the methods with which the Commission found fault, such that the only methods permitted are those that meet the FCC’s prophylactic standards.”²² The Company updated its existing practices and conformed with FCC’s requirements by not displaying telephone numbers in full. Q Link believes that the proposed forfeiture is excessive.

¹⁷ Q Link reply comments, December 27, 2023, p. 2.

¹⁸ Q Link reply comments, December 27, 2023, p. 3.

¹⁹ Q Link reply comments, December 27, 2023, p. 2.

²⁰ Department reply comments, March 6, 2024, IR No. 4, pp. 2-3. Emphasis from IR.

²¹ Department reply comments, March 6, 2024, IR No. 3, p. 1.

²² Q Link reply comments, December 27, 2023, p. 3.

B. Department Reply Comments

1. Customer Complaints

Since 2018, the Consumer Affairs Office (CAO) has reported 17 complaints from Q Link customers. The Department received six complaints since March 2019. The Department does not consider this number of complaints to be excessive. While some were not resolved for extended periods, they were addressed promptly and to customer satisfaction.

2. Transparency

The Department says that the Commission “has enjoyed the cooperation and transparency of ETCs that willingly share the necessary information to assist the agency to meet its congressionally mandated task” of designating ETCs and monitoring Lifeline.²³ The Department says that Q Link is the exception to this standard of transparency amongst other ETCs.

Q Link did not provide its entire NAL 1 or NAL 2 responses, stating that they are confidential and cannot be shared. The Department consulted with the FCC’s Enforcement Bureau, who said that Q Link could legally share the responses.

The Department created an opportunity for Q Link to support its claims with the same expert opinions and legal arguments it conveyed to the FCC; the company did not seize that opportunity.²⁴

The Department says that had it received the NAL 1 and 2, it could have evaluated Q Link’s expert opinions objectively and possibly supported its claim. Additionally, Q Link stated that the penalty imposed by the FCC for its security issue was excessive, and the Department could have evaluated this claim as well had they received that NAL 2.

The Department also found an order from the Illinois Commerce Commission (ICC). The ICC discussed whether the public interest would be served by designating Q Link as an ETC in Illinois and how this led to their decision to deny ETC status. ICC cited similar concerns as New Mexico and California had:

- 1) A lack of providing consistent information to staff;
- 2) Apparent attempts to obscure facts or mislead the Commission; and
- 3) Concerns about Q Link’s responses to possible future enforcement actions.²⁵

In response to the Department’s IR No. 1, Q Link says that the ICC found that Q Link’s offerings were too similar to others already in the market, which was the reason for denial.²⁶

²³ Department reply comments, March 6, 2024, p. 4.

²⁴ Department reply comments, March 6, 2024, p. 4.

²⁵ Department reply comments, March 6, 2024, p. 6.

²⁶ Department reply comments, March 6, 2024, IR No. 1, p. 2.

3. Department Recommendation

Without more information, the Department says that the Commission cannot evaluate Q Link's ability to manage federal funding and prevent waste, fraud, and abuse of the Lifeline program. Therefore, the Department is recommending that the Commission require Q Link to perform additional compliance reporting (**Decision Option 1**). The reporting would include the following (**Decision Options 1a, 1c, and 1e**):

- Identify all existing affiliates and describe their relationship to Q Link;
- Describe all criminal and civil actions against Q Link (related to ETC designation or otherwise) in any other state or at the federal level; and
- Describe all criminal or civil actions against Q Link's owners and/or officers (related to ETC designation or otherwise) in any other state or at the federal level.

C. Q Link Reply Comments

Q Link says that it does not agree with many of the Department's statements but that it can accommodate the Department-recommended annual reporting (**Decision Option 1**). The Company says that it is "solely owned by Mr. Issa Asad, the requested identification of all 'affiliates,' rather than just those that provide telecommunications, is highly intrusive into Mr. Asad's unrelated personal affairs."²⁷ Therefore, it does not support reporting contractual disputes that are not based on fraud allegations.

1. Q Link Recommendation

Instead, Q Link offered modifications to the Department's proposed reporting (**Decision Options 1b, 1d, and 1f**):

- Identify all existing telecommunications affiliates and describe their relationship to Q Link.
- Describe all pending criminal and civil actions against Q Link (related to telecommunications, fraud or misrepresentation) in any other state or at the federal level.
- Describe all criminal or civil judgments against Q Link's owners and/or officers (related to telecommunications, fraud or misrepresentation) in any other state or at the federal level.

V. Staff Analysis

Q Link is the largest mobile Lifeline provider in Minnesota. The majority of Lifeline funds dispersed in Minnesota are returned to Q Link, more than any other ETC as shown in Table 2.

²⁷ Q Link reply comments, March 22, 2024, p. 1.

Table 2: Q Link Credits vs. All Providers' Credit²⁸

Year	Q Link Credits	Total for All Minnesota Lifeline Providers	Percentage of Q Link Credits Compared to the Total of Minnesota's Lifeline Credits
2018	\$3,772,957	\$9,798,059	38.5%
2019	\$4,134,382	\$8,545,419	48.4%
2020	\$3,908,386	\$7,745,689	50.5%
2021	\$3,238,437	\$6,529,173	49.6%
2022	\$2,273,208	\$5,768,152	39.4%
2023	\$2,293,425	\$7,793,603	29.4%

The second most Lifeline credits in Minnesota are provided by Assurance. In 2021, Assurance Wireless' customers received \$760,786, compared to \$3,238,437 from Q Link.²⁹

Even compared to other low-income programs, Q Link awards a large number of credits in Minnesota. Table 3 below displays the number of affordability credits distributed in 2022 across multiple programs:

Table 3: Affordability Credits Distributed by Company and Program in 2022³⁰

Company and Program	Affordability Credits Distributed (\$)
Xcel Energy – PowerON³¹	\$8,306,407
Xcel Energy – Low Income Discount	\$5,364,449
CenterPoint Energy – GAP	\$4,612,392
Q Link Wireless – Lifeline	\$3,238,437
Xcel Energy Gas – GAP	\$2,143,896
Xcel Energy – Medical Discount	\$1,095,792
Assurance Wireless – Lifeline	\$760,786

²⁸ USAC Lifeline Disbursements Tool. (<https://opendata.usac.org/Lifeline/Lifeline-Disbursements-Tool/rink-mije>)

²⁹ Department initial filing, October 9, 2023, p. 1.

³⁰ Department initial filing, October 9, 2023, p. 1; 04-1956 2022 Annual Report.

³¹ Xcel reporting includes administrative costs.

Minnesota Energy Resources – GAP	\$341,557
Great Plains Natural Gas – GAP	\$108,311

Therefore, staff believes it is important that Q Link maintains its ETC designation in Minnesota and continues offering Lifeline service.³² By revoking it, many customers would be left without mobile phone service. While a customer could pick another Lifeline service provider, it would be a time-consuming and complex process for the individual.

While some ETCs have withdrawn their service, there has been only one revocation in Minnesota, and it is still currently pending. Table 4 shows all of the ETC relinquishments and revocations in Minnesota:

Table 4: Minnesota ETC Relinquishments and Revocations

Docket No.	Company	Services
Relinquishments		
12-1016	Midwest Wireless	Lifeline
16-414	Nexus Communications	Lifeline
16-738	Assurance Wireless USA	Lifeline
16-1058	Total Call Mobile	Lifeline
19-195	Lake Country d/b/a Lake Connections	Lifeline
22-487	T-Mobile	Lifeline
22-143	Cable One	High Cost
24-109	StarLink	High Cost
Revocations		
22-221	LTD Broadband (Pending)	High Cost

The Commission has the authority to revoke a company's ETC status.³³ However, outside the

³² Note that there is no decision option reflecting revoking Q Link's ETC status.

³³ **7811.1400 ETC Designation (Small Local Providers)**

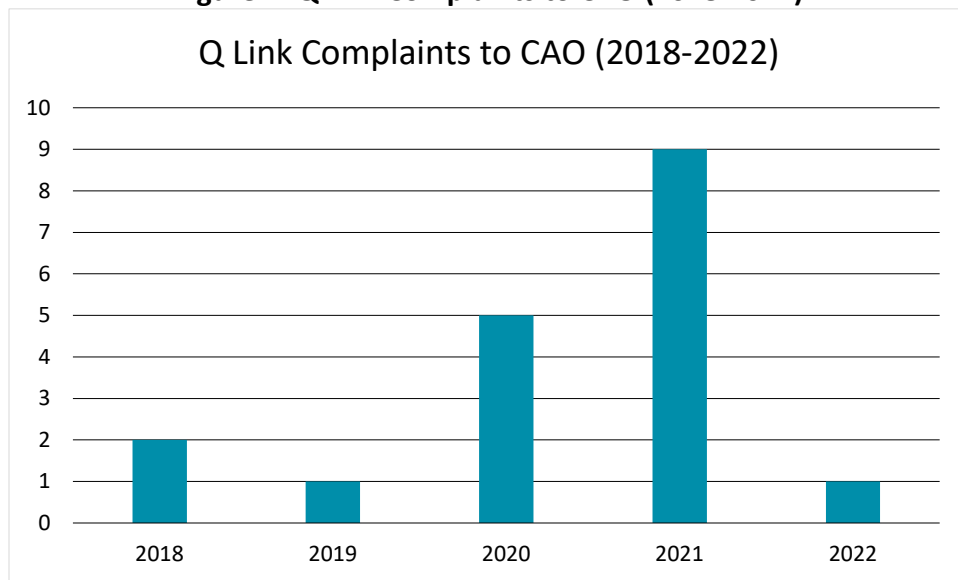
Subp. 15. **Revocation.** The commission shall revoke a local service provider's ETC designation upon finding that the LSP [Local Service Provider] does not qualify as an ETC under part [7811.0100](#), subpart 15.

(<https://www.revisor.mn.gov/rules/7811.1400/#rule.7811.1400.15>)

pending LTD Broadband proceeding, Staff is not aware of any prior revocation dockets before the Commission or precedent that the Commission exercised that authority.

Staff does not find that there have been a significant number of complaints lodged with CAO from Q Link customers. There have been no complaints since 2022. Figure 1 displays the number of complaints over the last six years.

Figure 1: Q Link Complaints to CAO (2018-2021)



However, even if no significant issues have been found in Minnesota, there have been known issues in other states and with the FCC. Therefore, Staff finds that additional required reporting from Q Link is prudent.

In its October 9, 2023 filing, the Department makes the point that Minnesota's gas IOUs are required to perform much more stringent reporting related to the Gas Affordability Program (GAP) as compared to the Lifeline ETCs. Annual reports are required with many reporting standards like the number of participants, disconnection rates, retention rates from the previous year, etc.

Q Link's reporting recommendations offer a more limited scope of reporting as compared to the Department's. Table 5 compares the differences between the Department's and Q Link's reporting recommendations side by side:

7812.1400 ETC Designation (Large Local Providers)

Subp. 15. **Revocation.** The commission shall revoke a local service provider's ETC designation upon finding that the LSP does not qualify as an ETC under part [7812.0100](#), subpart 15.

(<https://www.revisor.mn.gov/rules/7811.1400/#rule.7811.1400.15>)

Table 5: Side-by-Side of Department and Q Link Decision Option Recommendations

Department Recommendation	Q Link Recommendation	Differences Between Recommendation
1a. Identify all existing affiliates and describe their relationship to Q Link.	1b. Identify all existing <u>telecommunications</u> affiliates and describe their relationship to Q Link.	The Company limits the reporting to only other <i>telecommunications</i> affiliates.
1c. Describe all criminal and civil actions against Q Link (related to ETC designation or otherwise) in any other state or at the federal level.	1d. Describe all <u>pending</u> criminal and civil actions against Q Link (<u>related to telecommunications, fraud or misrepresentation</u> ETC designation or otherwise) in any other state or at the federal level.	The Company limits reporting of criminal and civil actions to only <i>pending</i> ones and does not want to report on ETC designations or any other items, instead limiting the reporting to <i>telecom matters, alleged fraud, and whether it has allegedly misrepresented itself</i> .
1e. Describe all criminal or civil actions against Q Link’s owners and/or officers (related to ETC designation or otherwise) in any other state or at the federal level.	1f. Describe all criminal or civil actions <u>judgments</u> against Q Link’s owners and/or officers (<u>related to telecommunications, fraud or misrepresentation</u> ETC designation or otherwise) in any other state or at the federal level.	The Company limits reporting to only telecom judgments against its owners and officers, removing all mention of personal judgments.

Staff supports **Decision Option 1** requiring annual reporting generally but does not have a strong opinion between the Department’s or Q Link’s recommendations on specific reporting requirements.

VI. Decision Options

1. Require Q Link Wireless to file reporting by March 1 annually with the following:
(Department, Q Link, Staff suggestion on date)

[AND]

- a. Identify all existing affiliates and describe their relationship to Q Link.
(Department)

[OR]

- b. Identify all existing telecommunications affiliates and describe their relationship to Q Link. *(Q Link alternative to 1a)*
- c. Describe all criminal and civil actions against Q Link (related to ETC designation or otherwise) in any other state or at the federal level. Provide the name of the state or the federal agency, the relevant docket number(s), the date the docket was opened, and a copy of any final order. *(Department)*

[OR]

- d. Describe all pending criminal and civil actions against Q Link (related to telecommunications, fraud or misrepresentation) in any other state or at the federal level. Provide name of the state or the federal agency, the relevant docket number(s), the date the docket was opened, and a copy of any final order. *(Q Link alternative to 1c)*
- e. Describe all criminal or civil actions against Q Link's owners and/or officers (related to ETC designation or otherwise) in any other state or at the federal level. Provide the name of the state or the federal agency, the relevant docket number(s), the date the docket was opened, and a copy of any final order. *(Department)*

[OR]

- f. Describe all criminal or civil judgments against Q Link's owners and/or officers (related to telecommunications, fraud or misrepresentation) in any other state or at the federal level. Provide name of the state or the federal agency, the relevant docket number(s), the date the docket was opened, and a copy of any final order. *(Q Link alternative to 1e)*