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April 14, 2014

PUBLIC DOCUMENT

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

RE: American Broadband and Telecommunications Company's Petition for Designation as an
Eligible Telecommunications Carrier (Low Income Only) in Minnesota
Docket No. P6898/M-13-675

Dear Dr. Haar:

Attached are the **PUBLIC** comments of the Minnesota Department of Commerce in the above
referenced matter.

The petition was filed on August 2, 2013 by:

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The Department recommends approval of the petition with conditions and is available to answer
any questions the Commission may have.

Sincerely,

KATHERINE DOHERTY
Rates Analyst

KD/ja
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

PUBLIC COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. P6898/M-13-675

I. PROCEDURAL BACKGROUND

On August 2, 2013, American Broadband and Telecommunications Company (ABT) filed a petition seeking designation as an Eligible Telecommunications Carrier (ETC) in Minnesota for the purpose of receiving federal universal service support solely for providing Lifeline (and Linkup) service to qualified customers.

II. APPLICABLE LAW

FCC Rule 47 C.F.R. §54.101 (a) defines the supported services that must be offered by eligible telecommunications carriers and states:

(a) *Services designated for support.* Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide 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.

FCC Rule 47 C.F.R. §54.201 (d) requires that a common carrier designated as an eligible telecommunications carrier under this section shall be eligible to receive universal service support in accordance with section 254 of the Act and shall, throughout the service area for which the designation is received:

- (1) Offer the services that are supported by federal universal service support mechanisms under subpart B of this part and section 254(c) of the Act, 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);¹ and
- (2) Advertise the availability of such services and the charges therefore using media of general distribution.

FCC Rule 47 C.F.R. §54.202 sets forth requirements for designation of eligible telecommunications carriers, and states:

- a) In order to be designated an eligible telecommunications carrier under section 214(e) (6), any common carrier in its application must:
 - 1) (i) Certify that it will comply with the service requirements applicable to the support that it receives.
 - (ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements.
Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to submit such a five-year plan.(emphasis added)

¹ In its February 6, 2012 Report and Order and Further Notice of Proposed Rulemaking in the Matter of Lifeline and Linkup Reform and Modernization (WC Docket No. 11-42), Lifeline and Linkup (WC Docket 03-109) Federal State Joint Board on Universal Service (CC Docket No. 96-45) and Advancing Broadband through Digital Literacy Training (WC Docket No. 12-23) (*Lifeline Linkup Reform Order*) the FCC granted, on its own motion, blanket forbearance from applying the facilities requirement of section 214(e)(1)(A) of the Act to *all* telecommunications carriers that seek designation limited to participation in the Lifeline program, subject to the following conditions:

- Each carrier must (a) provide its Lifeline subscribers with 911 and E911 access, regardless of activation status and the availability of minutes, (b) provide its Lifeline subscribers with E911 compliant handsets and replace, at no charge, non-compliant handsets of Lifeline-eligible subscribers.
- Each carrier must submit and receive FCC approval of a compliance plan providing “specific information about the carrier’s service offerings and outlining the measures the carrier will take to implement the obligations contained in [the Lifeline Linkup Reform Order] as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary.”

(2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

(3) Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

(4) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of this part.

(5) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, submit information describing the terms and conditions of any voice telephony service 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. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

b) Public interest standard. Prior to designating an eligible telecommunications carrier pursuant to section 214(e) (6), the Commission determines that such designation is in the public interest.

47 C.F.R. §54.405 subparts (a) and (b) require that ETCs a) must make Lifeline service available to low income consumers and b) must publicize the availability of Lifeline service “in a manner reasonably designed to reach those most likely to qualify for the service. Subpart (c) requires specific disclosures in marketing materials.

47 C.F.R. §54.410 (a) as amended June 25, 2013, states that “All eligible telecommunications carriers must implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services. An eligible telecommunications carrier may not provide a consumer with an activated device that it represents enables use of Lifeline-supported service,

nor may it activate service that it represents to be Lifeline service, unless and until it has (1) confirmed that the consumer is a qualifying low-income consumer pursuant to §54.409, and (2) completed the eligibility determination and certification required by this section and §§54.404-54.405, and completed any other necessary enrollment steps.

47 C.F.R §54.417(a) imposes record keeping requirements on ETCs, stating:

(a) Eligible telecommunications carriers must maintain records to document compliance with all Commission and state requirements governing the Lifeline and Tribal Link Up program for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request. Notwithstanding the preceding sentence, eligible telecommunications carriers must maintain the documentation required in §54.410(d) and (f) for as long as the subscriber receives Lifeline service from that eligible telecommunications carrier.

47 C.F.R §54.420 (a) provides for audits, every two years, of overall compliance with rules and the company's internal controls for Companies that receive \$5 million or more annually on a holding company basis every two years.

47 C.F.R §54.422(a) sets forth the requirements for annual certifications required of all carriers (including Lifeline-only ETCs) that provide Lifeline service and receive low-income support, and states:

(a) In order to receive support under this subpart, an eligible telecommunications carrier must annually report:

(1) The company name, names of the company's holding company, operating companies and affiliates, and any branding (a "dba," or "doing-business-as company" or brand designation) as well as relevant universal service identifiers for each such entity by Study Area Code. For purposes of this paragraph, "affiliates" has the meaning set forth in section 3(2) of the Communications Act of 1934, as amended; and

(2) Information describing the terms and conditions of any voice telephony service 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. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

47 C.F.R. §54.422(b)² sets forth additional annual certifications required of eligible telecommunications carriers that receive Lifeline *only* support.

b) In order to receive support under this subpart, a common carrier that is designated as an eligible telecommunications carrier under section 214(e) (6) of the Act and does not receive support under subpart D of this part must annually provide:

- (1) Detailed information on any outage in the prior calendar year, as that term is defined in 47 CFR 4.5, of at least 30 minutes in duration for each service area in which the eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect
 - (i) At least ten percent of the end users served in a designated service area; or
 - (ii) A 911 special facility, as defined in 47 CFR 4.5(e).
 - (iii) Specifically, the eligible telecommunications carrier's annual report must include information detailing:
 - (A) The date and time of onset of the outage;
 - (B) A brief description of the outage and its resolution;
 - (C) The particular services affected;
 - (D) The geographic areas affected by the outage;
 - (E) Steps taken to prevent a similar situation in the future; and
 - (F) The number of customers affected.
- (2) The number of complaints per 1,000 connections (fixed or mobile) in the prior calendar year;
- (3) Certification of compliance with applicable service quality standards and consumer protection rules;
- (4) Certification that the carrier is able to function in emergency situations as set forth in §54.202(a) (2).

47 C.F.R. §54.422(c) requires that:

All reports required by this section must be filed with the Office of the Secretary of the Commission, and with the Administrator. Such reports must also be filed with the relevant state commissions and the relevant authority in a U.S. territory or Tribal governments, as appropriate.

² Similar annual reporting requirements for ETCs that receive high cost support are set forth in 47 C.F.R. §54.313.

III. STATEMENT OF ISSUE

- Whether ABT has demonstrated the intent and capability of offering and advertising voice telephony service to Lifeline- qualified customers throughout its requested service area.
- Whether designation of ABT as an ETC, limited to the provision of Lifeline service, is in the public interest.

IV. ANALYSIS

ABT's Capability and Intent to Offer Voice Telephony

Under Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules, a common carrier may be designated as an ETC if it (1) offers the services supported by federal universal service, (2) offers such services using its own facilities or a combination of its own facilities and resale of another carrier's services; and (3) advertises the availability of such services and the relevant charges using media of general distribution.

ABT, as a Commercial Mobile Radio Service (CMRS) provider, is a common carrier as defined in 47 U.S.C. §153 (11).³

ABT states that it will comply with 47 C.F.R. 54.101 and will provide "voice telephony service," including 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, toll limitation to qualifying low income consumers and access to emergency services.⁴

ABT's Facilities

ABT provides service through resale of services obtained from underlying carrier services provided by Sprint.⁵ ABT does not meet the "own facilities requirement, but received approval from the FCC of its Revised Compliance Plan (Compliance Plan) on May 25, 2012, enabling it

³ 47 U.S.C. §153 (11) states: The term "common carrier" or "carrier" means any person engaged as a common carrier for hire in interstate or foreign communications by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not be deemed a common carrier.

⁴ ABT initial petition, pages 4-9.

⁵ Id, page 5.

to take advantage of the FCC's blanket grant of forbearance from the facilities based requirement. ABT filed a copy of the approved Compliance Plan in Exhibit B attached to its initial petition filed August 2, 2013.

ABT's Requested Service Area

ABT states that it seeks certification in the geographic areas in Minnesota where its underlying carrier, Sprint, provides coverage, and has provided a list of Minnesota exchanges throughout which it will provide service.

ABT's Intent to Advertise the Supported Services throughout its Requested Service Area

ABT notes in its initial petition that it will "advertise the availability of its services and charges in a manner designed to reach those likely to reach Lifeline-eligible consumers"⁶ ABT states that it intends to advertise its Lifeline services using media of general distribution, and that it "will expand its advertising efforts if necessary to ensure that Lifeline-eligible customers are aware of the service offerings."⁷ In response to the Department's request for additional information, ABT stated that it "anticipates that it will advertise in both print and radio, along with placing program collateral in government assistance office locations via American Broadband's kiosks [and] will enroll customers through employees or agents located in state government offices where members of the public come to work with their case workers and sign up for various government programs."⁸

While ABT states that it has not finalized the specific government office locations, ABT commits that, if required to do so by the Commission, will submit a formal advertising and outreach plan listing the specific media and means through which it intends to advertise the availability of Lifeline service and a proposed schedule or anticipated frequency of such advertising within 30 days of the Commission order approving ABT's petition. In addition, ABT agrees to comply with the FCC's revised rules regarding information to be included in marketing materials.⁹

The Department recommends that the Commission incorporate a condition in its order reflecting ABT's commitment to provide a formal advertising plan.

⁶ ABT initial petition, page 10.

⁷ Id.

⁸ ABT response to Department IR #1. (See Attachment A.)

⁹ Specifically, ABT commits that its marketing materials will state, in easily understood language that (i) the service is a Lifeline service; (ii) Lifeline is a government assistance program; (iii) the service may not be transferred to someone else; (iv) consumers must meet certain eligibility requirements before enrolling in the Lifeline program; (v) the Lifeline program permits only one Lifeline discount per household; (vi) documentation is necessary for enrollment; and (vii) ABT is the provider of the services.

As an ETC for the sole purpose of providing Lifeline service to low income customers, it is to ABT's benefit to advertise its offerings and engage in outreach efforts that will result in increased participation in the Lifeline program.

ABT's Willingness to Comply with the Applicable Service Requirements

ABT certifies that it will comply with the service requirements applicable to the low-income support it receives (as required by 47 C.F.R. 54.202(a) (1)) as a result of designation as ETC for purposes of receiving Lifeline. ABT describes, in its FCC Compliance Plan, how it will comply with the FCC's new requirements, rules, and policies applicable to the provision of Lifeline service. ABT will be bound by the service requirements codified in FCC Rules 54.405, 54.410,¹⁰ 54.416, 54.417, and 54.422.

ABT's Ability to Remain Functional in Emergency Situations

ABT states in its initial petition that ABT service will be provided through resale, "utilizing the extensive and well-established Sprint network and facilities."¹¹ Sprint has provided certification in other dockets before the Commission that it has reasonable amounts of back-up power to ensure functionality without an external power source, the ability to reroute traffic around the damaged facilities and the ability to manage traffic spikes resulting from emergency situations.

In addition, ABT provided the following information in response to the Department's questions:

Sprint has 24-hour battery backup power at all cell sites (including collocations). In addition, over 90% of cell towers can be vectored to other cell sites if they are damaged, so no loss of service is evident during failover. Lastly, no Sprint cell sites are built on 100 year flood plain sites identified by the Army Corps of Engineers.¹²

¹⁰ The Department notes that on June 25, 2013, the FCC issued an Order underscoring "certain compliance requirements that are contained in the Lifeline Reform Order and its accompanying rules." Noting that "despite the directives provided in the Lifeline Reform order, some ETCs may be activating phones that they represent enable use of Lifeline-supported service for consumers prior to fully verifying the eligibility of such consumers," the FCC amended section 54.410(a) of the FCC's rules to reflect that an ETC may not provide Lifeline service, *even on an interim basis* while the consumer's application is being processed, before verifying eligibility. The FCC also took the opportunity to reiterate, in its order, that Lifeline is a "non-transferable retail service offering, a fact that must be disclosed to the consumer and included on the certification form." (In the Matter of Lifeline and Link Up Modernization and Reform, WC Docket No. 11-42, June 25, 2013)

¹¹ Initial petition, page 11.

¹² ABT March 21, 2014 email response to Department questions.

The Department believes sufficient information has been provided for the Commission to conclude that ABT has the capability of remaining functional in a variety of emergency situations.

Service quality, Consumer Protection, and Customer Service Commitments

ABT states on page 12 of its petition that it commits to comply with the Cellular Telecommunications and Internet Association (CTIA) Consumer Code, which the FCC has found to be an adequate commitment to consumer protection and service quality standards. The stated purpose of the CTIA code is “to provide consumers with information to help them make informed choices when selecting wireless service,” and includes, among other requirements and voluntary commitments:

- Provisions related to disclosure of all rates, terms and conditions to consumers at the point of sale and on the carriers’ websites.
- A commitment to make coverage maps available to consumers at the point of sale and on their websites.
- A commitment to provide specific disclosures in advertising.
- A commitment to provide ready access to customer service, specifically:

Customers will be provided a toll-free telephone number to access a carrier’s customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers’ web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier’s customer service departments.

- A commitment to respond promptly (in writing, within 30 days) to consumer inquiries and complaints received from government agencies.

ABT has met the requirements of 47 C.F.R. §54.202 (a) (2).

Financial and Technical Capability

Citing to the comments of the Indiana Commission (in the Lifeline-Linkup Reform Docket) that “companies that have made a business case to service 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,”¹³ the FCC determined that a carrier seeking designation as an ETC for the purpose of offering only Lifeline service must demonstrate that it is financially and technically capable of providing the supported (Lifeline) service in compliance with the applicable rules.

Specifically, the FCC stated that “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 or ETC revocation in any state.”¹⁴

ABT’s Financial Capability

ABT states in its FCC Compliance Plan that:

American Broadband already operates as a wireline Lifeline ETC in the states of Michigan and Ohio, and is licensed as a telecommunications carrier in Ohio, Michigan and Indiana. American Broadband serves more than 30000 customers in these three states, including more than 10,000 Lifeline-qualified wireless customers in Ohio and Michigan.¹⁵

ABT further states that its “management [team] has more than 50 years’ experience in the telecommunications industry,” and that it “owns and operates a partially facilities based network, including a class 5 switch in Toledo Ohio.”¹⁶

ABT claims that its “financial qualifications are well established,”¹⁷ and, in response to Department information requests, has provided recent financial statements in support of its claim. The financial statements indicate **[TRADE SECRET INFORMATION HAS BEEN EXCISED]** as of December 31, 2012.

¹³ Lifeline-Linkup Reform Order, fn 1010.

¹⁴ Id., para. 388.

¹⁵ ABT FCC Compliance Plan, page 18.

¹⁶ Id.

¹⁷ Id.

ABT states that “Lifeline customers are a relatively small part of the Company’s overall revenue, and the Company is not dependent upon Lifeline support revenue as its primary source of income.”¹⁸ ABT states that it has never been the subject of a state enforcement action or ETC revocation proceedings in any state.”¹⁹

The Department believes that ABT has provided sufficient information for the Commission to conclude that it has the financial and technical ability to offer Lifeline service to qualified consumers in Minnesota.

ABT’s Description of its Lifeline Offerings

ABT stated its initial petition that it will offer Lifeline service throughout its designated service area in Minnesota. The plan includes 250 free monthly voice minutes and 250 free text messages. In addition, ABT was recently approved in Illinois to offer a Lifeline plan with 325 free voice minutes and texting at the rate of two texts per minute and proposes to offer the plan in Minnesota to Lifeline qualified consumers. In addition to the 250 minute voice/250 text plan it initially proposed.

ABT’s Lifeline offerings include the following custom calling features at no charge:

- Caller ID
- Call Waiting
- 3-Way Calling
- Voicemail

Minutes are not decremented for calls to 911 or to customer service (611). Directory assistance (411) is provided at no additional charge, but minutes are decremented.

ABT offers additional minutes for purchase to Lifeline qualified customers at the following rates and in the following increments:

¹⁸ ABT FCC Compliance Plan, page 18.

¹⁹ Id., page 19.

Package	Price
100 talk minutes	\$6.99
250 talk minutes + 250 text messages	\$9.99
500 talk minutes + 500 text messages	\$19.99
1000 talk minutes + 1000 text messages	\$29.99
100 text messages	\$2.99
300 text messages	\$4.99
500 text messages	\$7.99
1000 text messages	\$12.99

All purchased packages of additional minutes and/or texts, do roll over from one month to the next, and do not expire as long as the account is active.

ABT will offer its Lifeline service to eligible residents of tribal lands within its proposed service area, but does not offer an enhanced Lifeline plan for qualified tribal customers, and does not intend to seek enhanced support for serving customers in tribal areas.

The Department believes that ABT has adequately described its Lifeline offerings to meet the requirements of 47 C.F.R. §54.202(a)(5).

PSAP Certification

The FCC determined, in the Lifeline-Linkup Reform order, that it would no longer require Lifeline-only ETC applicants (in petitions brought before the FCC) to obtain certification from each PSAP that the applicants' phones are 911 and E911 compliant. However, the FCC specifically preserved states' rights to do so.

The Department of Public Safety (DPS) conducts a streamlined review on behalf of all Minnesota PSAPS, requiring that the applicant submit a sample handset for testing to ensure that the applicant's handsets are 911 and E911 capable regardless of the activation status of the phone, and the availability of minutes. Given the critical nature of access to 911 and E911 service, the Department supports such a proactive process, and recommends that the Commission retain this requirement.

In addition, in order to provide certification, DPS requires that applicants certify that they will pay appropriately into the 911/TAM funds. This occurs in conjunction with the testing of handsets.

Effective May 24, 2013, Minnesota Statute 403.11 was amended to add (among other changes) the following section:

Subd. 3d. **Eligible telecommunications carrier; requirement.** No wireless communications provider may provide telecommunications services under a designation of eligible telecommunications carrier, as provided under Minnesota Rule 7811.1400, until and unless the commissioner of public safety certifies to the chair of the public utilities commission that the wireless telecommunications provider is not in arrears in amounts owed to the 911 emergency telecommunications service account in the special revenue fund.

The Department has ascertained that DPS will provide said certification (as appropriate) for ETC applicants as part of its initial certification process.

ABT has not yet obtained, certification from DPS, but has initiated contact with DPS and has begun the certification process.²⁰ ABT understands that it will need to complete the certification process (including the new requirement above) and file its certificate, signed by DPS, *prior to* offering Lifeline service to qualified customers in Minnesota.

ABT Wireless Customer Terms and Conditions/Informational Tariff

Typically the Commission has required that an applicant submit and maintain an informational tariff or customer service agreement submitted by the ETC applicant (whether certification includes Lifeline-only or for the receipt of high-cost funds) for the purpose of disclosure, and to memorialize commitments that the applicant has made, and which the Commission has considered in its determination of whether to designate the applicant as an ETC. Typically the informational tariff that included the following:

- All rates associated with the universal service offering, including the cost of all equipment and installation charges and all other recurring and non-recurring charges.
- All terms and conditions of service associated with its universal service offering.
- Other services which may be added to the universal service offering.
- The specific exchange areas in which the ETC offers service.
- Commitment to provide clear notice to consumers of the Commission's contact information and the availability of this Commission in addressing customer questions, concerns, comments, and complaints.

ABT has filed a proposed informational tariff. The Department will work with ABT to ensure that the informational tariff is complete and accurate and that the terms and conditions posted on ABT's website do not conflict with the Lifeline terms and conditions (to which ABT has committed) in its Minnesota informational tariff. The Department believes that the revisions to the tariff may be accomplished as a compliance matter prior to operation.

²⁰ ABT Response to Department IR#3.

Public Interest

The Commission has found, in its consideration of past ETC applications, that, in general, the designation of qualified competitive ETCs is in the public interest and comports with Minnesota's telecommunications goals of supporting universal service, maintaining just and reasonable rates, promoting customer choice, encouraging fair and reasonable competition for telephone service in a competitively neutral manner, and maintaining or improving quality of service,

As the FCC stated in the Lifeline-Linkup Reform Order, a primary goal of universal service is to provide voice service to low-income consumers at an affordable rate. Designation of Lifeline-only ETCs like ABT enable low-income consumers, many of whom might not otherwise have access to wireless telephone service, to take advantage of the same services provided to other wireless consumers. The prepaid feature may provide a viable option for Lifeline customers who are concerned about additional usage charges or long-term contracts. The FCC has recognized that "a cell phone can literally be a lifeline for families and provide low-income families, in particular, the means to empower themselves."²¹ Clearly, this is in the public interest.

Designation of additional wireless prepaid Lifeline-only ETCs will result in increased consumer choice and may engender competition among Lifeline-only ETCs, which may encourage designated carriers to differentiate and enhance their offerings to attract additional customers.

In addition to the increased opportunity for low-income consumers to take advantage of Lifeline offerings and the general public interest aspects of increased competition and choice, the Commission has typically evaluated the unique advantages and disadvantages of the applicant's service offering(s), including its "affordability" and/or adequacy of "free" minutes offered, and other commitments that the carrier makes, on a case by case basis.

- **Affordability/Adequacy of Offering**

ABT proposes to offer two offerings, as noted above. Lifeline-qualified customers may choose between a plan that includes 250 free voice minutes *and* 250 free text messages, and one which includes 325 free minutes and texting at the rate of 2 tests per available minute of use. Minutes do not roll over from one month to the next.²²

ABT provides a free E911 capable handset and calling features at no charge, including caller ID, call waiting, 3-way calling and voicemail. Minutes are not decremented for calls to 911. Calls to customer service are free. Minutes are decremented for calls to directory assistance, but there is

²¹ Lifeline-Linkup Reform Order, para. 17.

²² ABT response to Department IR #27.

no additional charge for using directory assistance service. There are no activation fees, and no contracts or deposits are required.

ABT does not plan to seek additional support for providing Lifeline on Tribal lands, and does not propose, at this time, a tribal offering that would enable ABT to seek enhanced Tribal lifeline support.

The Commission has previously found Lifeline offerings of 250 free minutes adequate, and both of ABT's Lifeline offerings compare favorably to a 250 minute plan. In addition, ABT commits to offer, in Minnesota, the highest number of free minutes of usage and supplementary minutes at the lowest price offered by ABT in any other jurisdiction in which ABT provides wireless Lifeline service, provided that the available support is the same.²³ If the Commission determines that ABT should be granted ETC status in Minnesota, the Department recommends that the Commission incorporate TCM's commitment as a condition.

- **The Commission's Expressed Expectations with Respect to Reasonable Customer Service Practices**

The Department notes that, largely in response to concerns expressed by consumer advocates in previous ETC designation dockets, the Commission has also made clear its expectations with respect to certain customer service policies and practices. To that end, the Commission has incorporated the following requirements in previous orders designating ETCs:

1. Customers should have access to *usable* phones. Frequent static or other interference on the line, lack of clarity, dropped calls, inability to place a call or receive a call under normal circumstances are not acceptable. If the buttons on phones are too small to use, for example, customers should have an opportunity to try a different make or model. Hearing-aid compatible handsets should be available to Lifeline-qualified customers, at no charge.
2. Policies regarding repair, maintenance, replacement of handsets, batteries, and chargers and options to purchase handsets should be clear to consumers, and available to consumers who do not have web access. Telrite should provide detailed information in writing, at the time of enrollment, of repair and replacement policies for phones and accessories (batteries, chargers) and purchase options.
3. Instruction manuals should be offered to consumers, and should be available upon request. It is not unreasonable to require that instruction manuals be provided to customers at the point of sale. If Telrite finds such a requirement burdensome, it should

²³ ABT response to Department IR #17.

be required to make clear to customers, at the time of enrollment, the process for obtaining a manual.

4. Customers should have access to customer service without lengthy hold-times, and without use of air time minutes.
5. Consumers should have access to information, via telephone as well as website, on all Minnesota distribution events, locations, and times.²⁴

The Department finds such principles reasonable and appropriate for application to other Lifeline-only ETCs including ABT.

Usable Phones

Although ABT initially proposed to offer refurbished handsets with its Lifeline offerings, ABT has made a business decision to offer only new handsets, at no charge, to Lifeline-qualified consumers.

The Department notes that while neither the FCC nor this Commission have established specific requirements with respect to handset quality, it is reasonable to expect, as noted above, that any “free” phones offered to Lifeline-qualified customers are *usable*.

The Department recommends that the Commission make clear in its Order, as it has in previous orders, its expectation that:

Customers should have access to *usable* phones. Frequent static or other interference on the line, lack of clarity, dropped calls, inability to place a call or receive a call under normal circumstances are not acceptable. If the buttons on phones are too small to use, for example, customers should have an opportunity to try a different make or model. Hearing-aid compatible handsets should be available to Lifeline-qualified customers, at no charge.

Repair/Replacement Policies

ABT has described its repair and phone replacement policies as follows:

A customer whose ABT phone has been lost or stolen must contact ABT to obtain a replacement handset. (This can be done via the toll-free customer service number.) The

²⁴ In the Matter of the Petition of Telrite Corporation for Designation as an Eligible Telecommunications Carrier, Docket No. P6962/M-11-132, *Order Granting ETC Designation*, Ordering paragraph 6 (a through e), November 28, 2012.

customer will be responsible for all charges incurred or minutes decremented until ABT Wireless receives this notice. Upon receiving notice of the lost or stolen phone, ABT Wireless will suspend the account immediately.²⁵

American Broadband replaces any broken or defective phone or phone accessory (such as batteries, chargers, etc.) if the customer returns the phone.²⁶

There is no fee to replace a phone where there is a programming error, if the phone is found to be defective, or has a battery or charger issue, if returned during the 30 day warranty period. In addition, if it is determined that the phone was damaged during the shipping process, a replacement phone will be provided. Under both situations, the phone must be received by the Company prior to a replacement phone being issued to the

customer. After the 30 day warranty, damaged, lost, or stolen phones require a \$25.00 replacement fee plus applicable sales tax.²⁷

ABT's lost and stolen phone and repair/replacement policies are located in its website at www.americanassistance.com and on an insert sent with the phone upon shipping.²⁸

The Department recommends that the Commission make clear in its Order its expectation that:

Policies regarding repair, maintenance, replacement of handsets, batteries, and chargers and options to purchase handsets should be clear to consumers, and available to consumers who do not have web access. ABT should provide detailed information in writing, at the time of enrollment, of repair and replacement policies for phones and accessories (batteries, chargers) and purchase options.

Operating Manuals

ABT states that it is able to, and does, provide cell phone instruction manuals with all new handsets that it distributes.²⁹

²⁵ ABT response to Department IR# 9.

²⁶ ABT response to Department IR #10.

²⁷ ABT response to Department IR # 20(c).

²⁸ ABT response to Department IR #20(e).

²⁹ ABT stated in a March 21, 2014 email to the Department that as of February 1, 2014, it provides only new handsets to Lifeline customers. If the Commission determines that TCM should be granted ETC status in Minnesota, the Department recommends that the Commission incorporate TCM's commitment as a condition.

Access to Customer Service

ABT customers may reach customer service without decrementing minutes by dialing 611 from their handsets.

The Department agrees with the Commission's statement that "Customers should have access to customer service without lengthy hold-times, and without use of air time minutes." The Commission may wish to incorporate its expectation as a condition to granting ETC status to ABT.

In-Person Distribution Events

To the extent that ABT conducts in-person distribution events, it should be required to provide consumers with access to information, via telephone as well as website, on its Minnesota distribution events, locations, and times.

- **Commitment to Serve Qualified Customers within its Service Area.**

The Department recommends that ABT be required to notify the Department and the Commission if it is unable to serve a Lifeline qualified customer within its service area upon reasonable request. ABT should be held to the same standard as other ETCs, and should be required to provide such notification within ten days of making the determination.

Annual Reporting Requirements

According to the FCC's Rules, ABT will be required to report annually on the following:

47 C.F.R §54.405 (e) (3) requires that eligible telecommunications carriers report annually, by month, the number of Lifeline subscribers de-enrolled for "non-usage."

47 C.F.R §54.420 provides for audits, every two years, of overall compliance with rules and the company's internal controls for companies that receive \$5 million or more annually on a holding company basis every two years.

Reports required by 47 C.F.R. §54.422 (a):

- The company name, holding company, operating companies and affiliates; names by which the ETC does business, and/or brand designations.
- Details with respect to the rates, terms, and conditions of any voice telephony service plans offered to Lifeline – eligible subscribers.

Reports required by 47 C.F.R 54.422(b):

- Detailed information on outages;
- The number of complaints per 1000 connections;
- Certification of compliance with service quality standards and consumer protection rules;
- Certification that the carrier is able to function in emergency situations.

Certifications and reports required by 47 C.F.R. §54.416

- Certification re: policies and procedures that the carrier has in place to ensure that Lifeline subscribers are eligible to receive Lifeline services;
- Certification that the carrier is in compliance with all federal Lifeline certification procedures;
- Report results of annual re-certification (of subscribers) efforts.

Record-Keeping required by 47 C.F.R. §54.417

- Documentation of compliance with FCC and state requirements governing Lifeline for three full preceding years and requirement to provide such documentation upon request from the FCC or the Universal service Administrative Company (USAC).

Reports required by 47 C.F.R. §54.422, and §54.416 must be filed with state commissions as well as with the FCC and the Universal Service Administrative Company (USAC).

The Department believes that the reports required by FCC rules provide adequate data for review of Lifeline-only ETC compliance. To the extent that the reports, customer complaints, or other issues warrant the Commission's review, the Department or other affected parties may bring those issues to the Commission on a case by case basis.

The Department believes that the Commission need take no action at this time with respect to a review specific to ABT.

V. COMMISSION ALTERNATIVES

A. ETC Designation

1. Find that ABT has made a credible showing of its capability and intent to provide and advertise an affordable, quality Lifeline offering, including "voice telephony" throughout its proposed service area, and that its designation for the provision of Lifeline is in the public

interest. Grant ABT's petition for ETC status for the limited purpose of providing Lifeline service to qualifying Minnesota customers.

2. Find that ABT has not made a credible showing of its capability and intent to provide and advertise an affordable, quality Lifeline offering, throughout its proposed service area, or that its designation for the provision of Lifeline service is not in the public interest. Deny ABT's petition for ETC status for the limited purpose of providing Lifeline service to qualifying Minnesota customers.
3. Find that ABT has made a credible showing of its capability and intent to provide and advertise an affordable, quality Lifeline offering, throughout its proposed service area, and that its designation for the provision of Lifeline service is in the public interest subject to conditions. Approve ABT's petition for ETC status for the limited purpose of providing Lifeline service to qualifying Minnesota customers, conditioned upon some or all of the following:
 - a) ABT shall offer, in Minnesota, the highest number of free minutes of usage offered in any jurisdiction by ABT, and supplementary minutes offered at the lowest price offered in any other jurisdiction in which ABT provides wireless Lifeline service, provided that the available support is the same.
 - b) Within 30 days of the Commission's Order conditionally approving ABT's petition, ABT must submit a formal advertising and outreach plan listing the specific local and community newspapers and commercial broadcast stations in Minnesota through which it intends to advertise the availability of Lifeline service and a proposed schedule or anticipated frequency of such advertising.
 - c) Within 30 days of the Commission's Order conditionally approving ABT's petition, ABT must file a revised informational tariff as recommended by the Department herein. ABT should also be required to ensure that the Terms and Conditions applicable to Minnesota customers, posted on its website, do not conflict with the terms and conditions included in its Minnesota informational tariff.
 - d) ABT should be required to notify the Commission and the Department, in writing, immediately upon any change to the Lifeline offering terms, conditions, or rates, or if it seeks to withdraw its Lifeline offering or any portion thereof. ABT must submit a revised tariff or customer service agreement page to reflect such changes.
 - e) ABT will report any unfulfilled requests of Lifeline-qualified customers. If it determines that it cannot reasonably serve a consumer, it will report the unfulfilled

request to the Department and the Commission within 10 days after making such a determination.

- f) ABT shall comply with the collection and remittance provisions of Minn. Stat. §§403.11 and 237.52.
- g) ABT must complete the certification process required by the Department of Public Safety and file its certificate, signed by DPS, prior to operating in Minnesota.
- h) ABT shall provide customers with access to usable phones. Frequent static or other interference on the line, lack of clarity, dropped calls, inability to place a call, or receive a call under normal circumstances are not acceptable. If the buttons on phones are too small to use, for example, ABT shall provide customers an opportunity to try a different make or model. ABT must make hearing-aid compatible handsets available to Lifeline-qualified customers, at no charge.
- i) Policies regarding repair, maintenance, replacement of handsets, batteries, and chargers and options to purchase handsets must be clear to consumers, and available to consumers who do not have web access. ABT shall provide detailed information in writing, at the time of enrollment, of repair and replacement policies for phones and accessories (batteries, chargers) and purchase options.
- j) ABT shall provide cell phone instruction manuals to its Lifeline customers.
- k) ABT shall provide its customers access to customer service without lengthy hold-times and without use of air-time minutes.
- l) To the extent that ABT conducts, or employ agents to conduct, in-person distribution events, it shall provide consumers with access to information, via telephone as well as website, on all Minnesota distribution events, locations, and times.
- m) ABT must notify the Department and the Commission if it is unable to serve a Lifeline qualified customer within its service area. ABT should be held to the same standard as other ETCs, and should be required to provide such notification within ten days of making the determination.

VI. DEPARTMENT RECOMMENDATION

The Department recommends alternative A-3, conditioned upon ABT's satisfying requirements (a) through (m). The Commission should find that ABT has made a credible showing of its capability and intent to provide and advertise an affordable, quality Lifeline offering, throughout its proposed service area, and that its designation for the provision of Lifeline service will be in the public interest once the following conditions are met.

Approve ABT's petition for ETC status for the limited purpose of providing Lifeline service to qualifying Minnesota customers, conditioned upon the following:

- a) ABT shall offer, in Minnesota, the highest number of free minutes of usage offered in any jurisdiction by ABT, and supplementary minutes offered at the lowest price offered in any other jurisdiction in which ABT provides wireless Lifeline service, provided that the available support is the same.
- b) Within 30 days of the Commission's Order conditionally approving ABT's petition, ABT must submit a formal advertising and outreach plan listing the specific local and community newspapers and commercial broadcast stations in Minnesota through which it intends to advertise the availability of Lifeline service and a proposed schedule or anticipated frequency of such advertising.
- c) Within 30 days of the Commission's Order conditionally approving ABT's petition, ABT must file a revised informational tariff as recommended by the Department herein. ABT should also be required to ensure that the Terms and Conditions applicable to Minnesota customers, posted on its website, do not conflict with the terms and conditions included in its Minnesota informational tariff.
- d) ABT should be required to notify the Commission and the Department, in writing, immediately upon any change to the Lifeline offering terms, conditions, or rates, or if it seeks to withdraw its Lifeline offering or any portion thereof. ABT must submit a revised tariff or customer service agreement page to reflect such changes.
- e) ABT will report any unfulfilled requests of Lifeline-qualified customers. If it determines that it cannot reasonably serve a consumer, it will report the unfulfilled request to the Department and the Commission within 10 days after making such a determination.
- f) ABT shall comply with the collection and remittance provisions of Minn. Stat. §§403.11 and 237.52.

- g) ABT must complete the certification process required by the Department of Public Safety and file its certificate, signed by DPS, prior to operating in Minnesota.
- h) ABT shall provide customers with access to usable phones. Frequent static or other interference on the line, lack of clarity, dropped calls, inability to place a call, or receive a call under normal circumstances are not acceptable. If the buttons on phones are too small to use, for example, ABT shall provide customers an opportunity to try a different make or model. ABT must make hearing-aid compatible handsets available to Lifeline-qualified customers, at no charge.
- i) Policies regarding repair, maintenance, replacement of handsets, batteries, and chargers and options to purchase handsets must be clear to consumers, and available to consumers who do not have web access. ABT shall provide detailed information in writing, at the time of enrollment, of repair and replacement policies for phones and accessories (batteries, chargers) and purchase options.
- j) ABT shall provide cell phone instruction manuals to its Lifeline customers.
- k) ABT shall provide its customers access to customer service without lengthy hold-times and without use of air-time minutes.
- l) To the extent that ABT conducts, or employ agents to conduct, in-person distribution events, it shall provide consumers with access to information, via telephone as well as website, on all Minnesota distribution events, locations, and times.
- m) ABT must notify the Department and the Commission if it is unable to serve a Lifeline qualified customer within its service area. ABT should be held to the same standard as other ETCs, and should be required to provide such notification within ten days of making the determination.

Exhibit 1

ABT RESPONSES TO DEPARTMENT QUESTIONS

State of Minnesota
DEPARTMENT OF COMMERCE

Utility Information Request

Docket Number: P6916/M-13-675

Date of Request: August 21, 2013

Requested From: Denise N Smith

Response Due: September 2, 2013

Counsel to American Broadband
and Telecommunications Company
Kelley, Drye, and Warren
Washington Harbour, Suite 400
3050 K Street NW
Washington DC, 20007
dsmith@kelleydrye.com

Analyst Requesting Information: Katherine Doherty

Type of Inquiry: ☐ -- Financial ☐ -- Rate of Return ☐ -- Rate Design
 ☐ -- Engineering - - - - - ☐ Forecasting ☐ -- Conservation
 ☐ Cost of Service..... ☐ CIP ☐ Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
1	Please provide an advertising plan listing the specific means by which American Broadband and Telecommunications Company (ABT)1 will advertise the availability of its services throughout its designated service area. Please include specific newspapers, radio or television stations, and any other media of general distribution that ABT intends to use in Minnesota. Please include information with respect to the frequency and timing of such advertisements. Please describe ABT's outreach program and the specific locations and low-income community services where ABT will promote the availability of Lifeline service.
Response	American Broadband intends to advertise its Lifeline services using media of general distribution. At this time, American Broadband has not finalized specific arrangements in Minnesota for advertising but anticipates that it will advertise in both print and radio. along with placing program collateral in government assistance office locations via American Broadband's kiosks. In addition, as stated in its FCC Compliance Plan, <i>Continued on next page</i>

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

American Broadband will enroll customers through employees or agents located in state government offices where members of the public come to meet with their case workers and sign up for various state programs. American Broadband has not finalized the specific government office locations. If required by the Commission, American Broadband will submit a formal advertising and outreach plan listing the specific media and means through which it intends to advertise the availability of Lifeline service and a proposed schedule or anticipated frequency of such advertising within 30 days of the Commission's order approving American Broadband's Petition.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

State of Minnesota
DEPARTMENT OF COMMERCE

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Response Due: September 2, 2013

Analyst Requesting Information: Katherine Doherty

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 ☐ Engineering ☐ Forecasting ☐ Conservation
 ☐ - Cost of Service ☐ CIP ☐ - - Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
2	Please describe the process by which ABT will account for and submit 911 and Telecommunications Access Minnesota (TAM) fees from all of its end user customers, including its Lifeline customers.
Response	American Broadband is familiar with the requirements of Minnesota Statute sections 237.52 and 403.11, requiring collection and remittance of TAM and 911 fees, respectively, to the Department of Public Safety. As a wireless carrier and a designated Eligible Telecommunications Carrier in Minnesota, American Broadband will maintain thorough records of customer numbers and usage as well as revenues for each month of operations. The Company has not yet completed an evaluation of the alternative methodologies identified by the Department of Public Safety for pre-paid wireless and Lifeline providers to calculate these fees, but will establish its method in advance of initiating operations to ensure compliance with its obligations.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

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 ☐ Cost of Service..... ☐ CIP ☐ Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
3	<p>Although the FCC determined that it would no longer require Lifeline-only ETC applicants (in petitions brought before the FCC) to obtain certification from each PSAP that the applicants' phones are 911 and E911 compliant, it preserved states' rights to do so. The Minnesota Department of Public Safety (DPS) conducts a streamlined review on behalf of all Minnesota PSAPS, requiring that the applicant submit a sample handset for testing to ensure that the applicant's handsets are 911 and E911 capable regardless of the activation status of the phone, and the availability of minutes. DPS also requires certification from the carrier that it will pay appropriately into the Minnesota State 911 fund.</p> <p>Has ABT received certification from DPS, or started the certification process?</p> <p><i>Continued on next page</i></p>

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

If not please contact DPS to begin the testing and certification process. ABT should contact:

Dana Wahlberg
State of Minnesota 911 Program Manager
Department of Public Safety
Office: 651-201-7546
Web Address: Dana.Wahlberg@state.mn.us

ABT will need to complete DPS' certification process prior to operating in Minnesota.

Response

American Broadband has not received this certification but is reaching out to DPS to begin the process. The Company understands that it must complete this process prior to beginning operations in Minnesota.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

State of Minnesota
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If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
4	Please explain how ABT will inform its Lifeline customers of the availability of the Minnesota Commission for assistance in resolving disputes or complaints.
Response	American Broadband will incorporate a Minnesota-specific provision into its Terms and Conditions (which are posted on the Company's website) to apprise Minnesota Lifeline customers that they may contact the Commission for assistance in resolving disputes or complaints.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

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 ☐..... Cost of Service ☐ CIP ☐ - - Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
5	Please list all makes and models of "free" handsets that ABT provides to its Lifeline customers.
Response	American Broadband obtains the "free" handsets it uses from Sprint. This is achieved through arrangements to purchase refurbished handsets in volume. (All of these handsets are 911 compatible and hearing-aid-compatible and all handsets are tested prior to distribution.) Because of the available terms and conditions for such purchases, the specific handset models available at a given time will vary; however, typical examples include ZTE warp, LG 670 and LG Rumor 2.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

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 ☐ -- Cost of Service ☐ CIP ☐ Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
6	Does ABT provide refurbished handsets or new handsets? If both, please provide the approximate percentage of phones that are provided new.
Response	All of the "free" Lifeline handsets that American Broadband provides are refurbished phones, obtained through the arrangements discussed in the preceding response. Upgraded phones may be refurbished or new. The approximate percentage of phones that are new is 30%.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

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If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
7	Does ABT provide cell phone instruction manuals with all handsets it provides or sells to Lifeline customers at the time of enrollment?
Response	American Broadband is able to provide cell phone instruction manuals only for the new handsets that it distributes, however American Broadband offers user and technical support for every phone model it provides.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

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If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
8	If not, how does a customer learn to set up and use his/her cell phone?
Response	American Broadband personnel conducting the enrollment will help familiarize customers with the workings of their handsets. Additionally, for questions that arise following enrollment, customers may contact customer service via 611 or the toll-free number for assistance.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

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 ☐..... Cost of Service ☐..... CIP ☐ -- Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
9	If a customer's phone is lost or stolen, how does the customer obtain a replacement?
Response	A customer whose American Broadband telephone has been lost or stolen must contact American Broadband to obtain a replacement handset. (This can be done via the toll-free customer service number). The Customer will be responsible for all charges incurred or minutes decremented until American Broadband receives this notice. Upon receiving notice of the lost or stolen phone, American Broadband will suspend the account immediately. The Customer will be provided an option to reactivate his or her account with a new mobile device. (If, within 30 days of the suspension of the account, the customer activates a mobile device or notifies American Broadband that the original telephone has been found, the account will be terminated and American Broadband will assign the wireless phone number associated with that phone to another user).

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

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 ☐..... Cost of Service ☐..... CIP ☐..... Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
10	Please provide a copy of ABT's policy for repair/replacement of defective handsets.
Response	American Broadband replaces any broken or defective phone or phone accessory (such as batteries, chargers, etc.) if the Customer returns the phone.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

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If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
11	Does ABT provide free hearing-aid compatible sets to hard of hearing Lifeline eligible customers?
Response	All of the handsets that American Broadband provides to Lifeline Customers are hearing-aid compatible.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

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Counsel to American Broadband
and Telecommunications Company
Kelley, Drye, and Warren
Washington Harbour, Suite 400
3050 K Street NW
Washington DC, 20007
dsmith@kelleydrye.com

Response Due: September 2, 2013

Analyst Requesting Information: Katherine Doherty

Type of Inquiry: ☐ Financial ☐ Rate of Return ☐ Rate Design
 ☐ - - Engineering ☐ Forecasting ☐ - - Conservation
 ☐ Cost of Service ☐ CIP ☐ - - Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
12	Please provide ABT's most recently available financial statements (Income and balance sheets.)
Response	Please see attached statements, at Attachment Request 12, provided confidentially as Trade Secret material pursuant to §7829.055 of the Minnesota Administrative Rules and the Commission's guidelines.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

**[OMITTED CONFIDENTIAL
INFORMATION]**

State of Minnesota
DEPARTMENT OF COMMERCE

Utility Information Request

Docket Number: P6916/M-13-675

Date of Request: August 21, 2013

Requested From: Denise N Smith
Counsel to American Broadband
and Telecommunications Company
Kelley, Drye, and Warren
Washington Harbour, Suite 400
3050 K Street NW
Washington DC, 20007
dsmith@kelleydrye.com

Response Due: September 2, 2013

Analyst Requesting Information: Katherine Doherty

Type of Inquiry: ☐ Financial ☐ Rate of Return ☐ Rate Design
 ☐ Engineering ☐ Forecasting ☐ -- Conservation
 ☐ Cost of Service ☐ CIP ☐ Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
13	Please list all agents and retailers that ABT will use in Minnesota to distribute phones and/or enroll Lifeline subscribers in Minnesota.
Response	American Broadband will not enroll customers at retail locations. As stated in its FCC Compliance Plan, American Broadband will enroll customers through employees or agents located in state government offices where members of the public come to meet with their case workers and sign up for various state programs, or through applications submitted by the individual applicant directly to American Broadband. If an individual contacts American Broadband for service via telephone, they are instructed to visit an agent (located in government offices) to receive an application, complete it and fax it to the Company. These applications are verified through the applicant's state case workers. All <i>Continued on next page</i>

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

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Telephone: 312-857-7087

agents and employees involved in the enrollment process go through the standard American Broadband training for enrolling customers. Moreover, an American Broadband employee will be responsible for overseeing and finalizing every Lifeline enrollment prior to including that customer on an FCC Form 497 for reimbursement.

At this time, American Broadband has not finalized specific arrangements in Minnesota for enrollment locations. American Broadband currently anticipates that it will directly manage the distribution processes.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

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 ☐..... Engineering ☐..... Forecasting ☐..... Conservation
 ☐..... Cost of Service ☐..... CIP ☐..... Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
14	<p>Please provide an informational tariff for the purpose of disclosure, and to memorialize commitments that ABT has made, that includes the following:</p> <ul style="list-style-type: none">• All rates associated with the universal service offering, including the cost of all equipment and installation charges and all other recurring and non-recurring charges.• All terms and conditions of service associated with its universal service offering.• Other services which may be added to the universal service offering.• The specific exchange areas in which the ETC offers service.• Commitment to provide clear notice to consumers of the Commission's contact information and the availability of this Commission in addressing customer questions, concerns, comments, and complaints.
Response	American Broadband's informational tariff is attached as Attachment Request 14.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

State of Minnesota
DEPARTMENT OF COMMERCE

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dsmith@kellevdrve.com

Response Due: September 2, 2013

Analyst Requesting Information: Katherine Doherty

Type of Inquiry: ☐Financial ☐ Rate of Return ☐ Rate Design
 ☐ -- Engineering ☐ Forecasting ☐ Conservation
 ☐ -- Cost of Service ☐ CIP ☐ Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
15	Are ABT customers charged "roaming" charges?
Response	No.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

State of Minnesota
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dsmith(d).kelleydrye.com

Response Due: September 2, 2013

Analyst Requesting Information: Katherine Doherty

Type of Inquiry:	<input type="checkbox"/> Financial	<input type="checkbox"/> Rate of Return	<input type="checkbox"/> Rate Design
	<input type="checkbox"/> Engineering	<input type="checkbox"/> Forecasting	<input type="checkbox"/> Conservation
	<input type="checkbox"/> Cost of Service	<input type="checkbox"/> CIP	<input type="checkbox"/> Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request
No.

16 Does ABT intend to serve qualified customers on tribal lands?

If yes, does ABT intend to claim enhanced Lifeline support for serving those customers?

If yes, does ABT propose an enhanced Lifeline offering for customers on tribal lands within its designated service area that would allow ABT to collect enhanced support and to certify that it will pass the full amount of the support it receives to the tribal customer?

Response No.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Fill: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

State of Minnesota
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dsmittakcileydrye.com

Response Due: September 2, 2013

Analyst Requesting Information: Katherine Doherty

Type of Inquiry: ☐ -- Financial ☐ Rate of Return ☐ Rate Design
 ☐ -- Engineering ☐ Forecasting ☐ Conservation
 ☐ -- Cost of Service ☐ -- CIP ☐ Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
17	Does ABT commit to offer, in Minnesota, the highest number of free minutes of usage offered in any jurisdiction by ABT, and supplementary minutes offered at the lowest price offered in any other jurisdiction in which ABT provides wireless Lifeline service, provided that the available support is the same?
Response	Yes.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

State of Minnesota
DEPARTMENT OF COMMERCE

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Type of Inquiry: ☐..... Financial ☐..... Rate of Return ☐..... Rate Design
 ☐..... Engineering ☐..... Forecasting ☐..... Conservation
 ☐..... Cost of Service ☐..... CIP ☐ - - Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
18	Has ABT been denied ETC status in any state? If yes, please specify the state and date denied.
Response	American Broadband has not been denied ETC status in any state.

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

State of Minnesota
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Docket Number: P6916/M-13-675

Date of Request: August 21, 2013

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3050 K Street NW
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dsmithfe.kelleydrye.com

Response Due: September 2, 2013

Analyst Requesting Information: Katherine Doherty

Type of Inquiry: ☐ -- Financial ☐ Rate of Return ☐ Rate Design
 ☐ -- Engineering ☐ -- Forecasting ☐ Conservation
 ☐ Cost of Service ☐ CIP ☐ Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
19	Please list all states where ABT has been designated as an ETC, and all other states where ABT has filed petitions for ETC status that are currently pending.
Response	<p>American Broadband is currently designated as an ETC in: Ohio, Indiana, Michigan, West Virginia and Wisconsin.</p> <p>American Broadband has filed or will shortly file petitions to be designated as an ETC in: California, Georgia, Illinois, Kentucky, Maryland, Missouri and Pennsylvania.</p>

Response by: Michael R. Dover

List sources of information:

Title: Counsel for American Broadband

Jeff Ansted, President of American Broadband and

Firm: Kelley Drye & Warren, LLP

Telecommunications Co. ("American Broadband")

Telephone: 312-857-7087

Doherty, Katherine (COMM)

From: Dover, Michael <MDover@KelleyDrye.com>
Sent: Friday, March 21, 2014 3:33 PM
To: Doherty, Katherine (COMM)
Cc: Kelly, Henry T.
Subject: RE: American Broadband

Hi Katherine,

Below are American Broadband and Telecommunications Company (AMBT)'s responses to your recent requests. Also, pursuant to AMBT's response to number 17 of the first data requests, please be aware that American Broadband was recently approved to provide 325 talk minutes of voice at no charge to Lifeline-eligible consumers, with texts charged as 30 seconds of a voice talk minute in Illinois. AMBT proposes to offer this program in Minnesota in addition to the plans detailed in its petition. Please let me know how you would like us to handle this addition.

Request: I'm still waiting to hear what Minnesota-specific safeguards ABT (or Sprint) has in place to prevent loss of service in the case of an emergency like a tornado or a flood.

Response: Sprint has 24-hour battery backup power at all cell sites (including collocations). In addition, over 90% of cell towers can be vectored to other cell sites if they are damaged, so no loss of service is evident during failover. Lastly, no Sprint cell sites are built on 100 year flood plain sites identified by the Army Corps of Engineers.

Request: I understand that if the service is de-activated, the customer does not get a refund for any unused minutes he/she has purchased, but as long as the service is still active, do the top-up minutes that ABT sells to Lifeline customers expire? If so, at what point?

Response: Unused Top Up Minutes do not expire.

Request: In answer to IR#9 ABT states:

A customer whose ABT phone has been lost or stolen must contact ABT to obtain a replacement handset. (This can be done via the toll-free customer service number.) The customer will be responsible for all charges incurred or minutes decremented until ABT Wireless receives this notice. Upon receiving notice of the lost or stolen phone, ABT Wireless will suspend the account immediately. (If within 30 days of the suspension of the account, the customer activates a mobile device or notify American broadband that the original telephone has been found, the account will be terminated and American Broadband will assign the wireless phone number associated with that phone to another user.)

I don't understand the 2nd parenthetical – why would the account be terminated if the customer activates a mobile device or notifies ABT that the original telephone has been found?

Response: The parenthetical is misstated. AMBT intended to convey the message that accounts are only associated with a single phone number (1 household, 1 Lifeline benefit). Once the same customer activates a different phone, we close the first account so there is no duplication of benefits.

Request: In response to IR #25 ABT states that it provides cell phone instruction manuals only for new handsets, and that the user and technical support does not go beyond ABT personnel conducting the enrollment helping to familiarize the customer with the workings of the handset and the availability of customer service (611) for assistance, but in response to IR #26 ABT states that it is willing to comply with the Commission's requirement in prior ETC designation orders, that "Instruction manuals should be offered to consumers and should be available upon request. It is not unreasonable to require that instruction manuals be provided to customers at the point of sale. If [the ETC] finds such a requirement burdensome, it should be required to make clear to consumers, at the time of enrollment, the process for obtaining a manual."

Please explain in detail how ABT will comply with this requirement for Lifeline customers who receive refurbished phones.

Response: AMBT no longer (as of February 1, 2014) supplies used/refurbished phones. AMBT includes a manual with all new phones.

Lastly, thank you for your assistance with AMBT's tariff. We'll review and submit a revised tariff.

Please let us know if you have any questions. Thank you,

Michael R. Dover | Kelley Drye & Warren LLP
333 West Wacker Drive, 26th Floor
Chicago, IL 60606-1227
312.857.7087 | mdover@kelleydrye.com
www.kelleydrye.com

From: Doherty, Katherine (COMM) [<mailto:katherine.doherty@state.mn.us>]
Sent: Monday, March 17, 2014 10:21 AM
To: Dover, Michael
Subject: American Broadband

Hi, Michael -

I am ready to file comments in the American Broadband and Telecommunications ETC application. I just have a couple of questions. If you could shoot me an email response, that would be great.

- I'm still waiting to hear what Minnesota-specific safeguards ABT (or Sprint) has in place to prevent loss of service in the case of an emergency like a tornado or a flood.
- I understand that if the service is de-activated, the customer does not get a refund for any unused minutes he/she has purchased, but as long as the service is still active, do the top-up minutes that ABT sells to Lifeline customers expire? If so, at what point?
- In answer to IR#9 ABT states:

A customer whose ABT phone has been lost or stolen must contact ABT to obtain a replacement handset. (This can be done via the toll-free customer service number.) The customer will be responsible for all charges incurred or minutes decremented until ABT Wireless receives this notice. Upon receiving notice of the lost or stolen phone, ABT Wireless will suspend the account immediately. (If within 30 days of the suspension of the account, the customer activates a mobile device or notify American broadband that the original telephone has been found, the account will be terminated and American Broadband will assign the wireless phone number associated with that phone to another user.)

I don't understand the 2nd parenthetical – why would the account be terminated if the customer activates a mobile device or notifies ABT that the original telephone has been found?

- In response to IR #25 ABT states that it provides cell phone instruction manuals only for new handsets, and that the user and technical support does not go beyond ABT personnel conducting the enrollment helping to familiarize the customer with the workings of the handset and the availability of customer service (611) for assistance, but in response to IR #26 ABT states that it is willing to comply with the Commission's requirement in prior ETC designation orders; that "Instruction manuals should be offered to consumers and should be available upon request. It is not unreasonable to require that instruction manuals be provided to customers at the point of sale. If [the ETC] finds such a requirement burdensome, it should be required to make clear to consumers, at the time of enrollment, the process for obtaining a manual."

Please explain in detail how ABT will comply with this requirement for Lifeline customers who receive refurbished phones.

I've attached a copy of the tariff with my concerns and questions in red-line. These issues are relatively minor and can be handled after designation as a compliance matter if you prefer.

Thank you!

Katherine Doherty
Minnesota Department of Commerce
85 7th Place East
St. Paul, MN 55101
katherine.doherty@state.mn.us
NEW TELEPHONE NUMBER BEGINNING JULY 1, 2013: 651-539-1877

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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
Public Comments**

Docket No. P6898/M-13-675

Dated this **14th** day of **April 2014**

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_13-675_M-13-675
Jeffrey	Ansted	JAnsted@ambt.net	American Broadband and Telecommunications Company	One Seagate Toledo, OH 43604	Electronic Service	Yes	OFF_SL_13-675_M-13-675
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_13-675_M-13-675
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_13-675_M-13-675
Henry T.	Kelly	hkelly@kelleydrye.com	Kelley Drye & Warren, LLP	Suite 2600 333 W. Wacker Drive Chicago, IL 60606	Paper Service	Yes	OFF_SL_13-675_M-13-675
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_13-675_M-13-675
Denise	Smith	dsmith@kelleydrye.com	Kelley Drye & Warren LLP	Washington Harbour Ste 400 3050 K St NW Washington, DC 20007-5108	Electronic Service	Yes	OFF_SL_13-675_M-13-675