

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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IN THE MATTER OF THE PETITION OF AMERICAN)
BROADBAND AND TELECOMMUNICATIONS)
COMPANY FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER IN THE STATE)
OF INDIANA FOR THE LIMITED PURPOSE OF)
OFFERING LIFELINE SERVICE TO QUALIFIED)
HOUSEHOLDS)

CAUSE NO. 41052 ETC 62

APPROVED:

DEC 27 2012

ORDER OF THE COMMISSION

Presiding Officers:

Larry S. Landis, Commissioner

Gregory R. Ellis, Administrative Law Judge

On February 28, 2012, American Broadband and Telecommunications Company (“American Broadband“ or “Petitioner“) filed its Verified Petition (“Petition“) for Limited Designation as an Eligible Telecommunications Carrier (“ETC“) for the Purpose of Low Income Support Only with the Indiana Utility Regulatory Commission (“Commission“). In its Petition, American Broadband sought designation as an ETC pursuant to Section 214(e)(2)¹ of the Federal Communications Act of 1934, as amended (“Act“) solely to provide wireless services supported by the Federal Universal Service Fund’s (“USF“) Lifeline program. Petitioner did not seek authority to provide services supported by the USF’s high-cost program.

On April 25, 2012, Petitioner pre-filed its direct testimony and exhibits. On May 24, 2012, the Indiana Office of the Utility Consumer Counselor (“OUCC“) filed its Notice of Intent Not to File Testimony. American Broadband did not file rebuttal testimony, but submitted responses to docket entry questions from the Presiding Officers on August 9, 2012.

Pursuant to notice duly published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a public hearing was held in this Cause on August 14, 2012 at 1:00 p.m. in Room 224, PNC Center, 101 West Washington Street, Indianapolis, Indiana. The Petitioner and the OUCC were present and participated. The testimony and exhibits of the witnesses were admitted into the record without objection and witnesses were made available for cross-examination. No members of the general public appeared or sought to testify at the hearing.

The Commission, having examined the evidence of record, and being duly advised in the premises, now finds as follows:

- 1. Notice and Jurisdiction.** Proper, legal, and timely notice of the hearing in this

¹ 47 U.S.C. § 214 (2012) (originally enacted as Act of June 19, 1934, ch. 652, Title VII, § 707, 48 Stat. 1105).

Cause was given and published by the Commission as provided for by law. The proofs of publication of the notice of the hearing have been incorporated into the record of this proceeding. Pursuant to the Act, 47 U.S.C. § 151 *et seq.*, and applicable Federal Communications Commission (“FCC”) Rules, 47 C.F.R. §§ 54.201 and 54.203, the Commission is authorized to designate ETCs, thereby enabling those so designated to apply for federal universal service support under Section 254 of the Act and in accordance with the Commission’s Orders in Cause Nos. 40785, 41052 and 42067. The Commission also has jurisdiction pursuant to Ind. Code § 8-1-2.6-13(d)(5)(B). The Commission therefore has jurisdiction over Petitioner and the subject matter of this Cause.

2. **Petitioner’s Characteristics.** American Broadband is a Delaware corporation authorized to conduct business in Indiana with principal offices in Toledo, Ohio. American Broadband provides local exchange, exchange access, and broadband services using its own switching and DSL+2 network facilities and a combination of unbundled network elements provided by Verizon and AT&T that allows end-to-end delivery of calls. Petitioner also offers prepaid wireless service including phone and data service through a combination of resale arrangements with Sprint PCS and Verizon Wireless. The Commission granted Petitioner a Certificate of Territorial Authority (“CTA”) to operate as a Communications Service Provider on July 27, 2011 in Cause No. 44011 and Petitioner began offering services in Indiana in January, 2012. Petitioner is also a common carrier as defined by 47 C.F.R. § 20.9 and a telecommunications carrier as defined by 47 U.S.C. § 153.

3. **Requirements for ETC Designation.** The Commission’s November 5, 1997 Order in Cause No. 40785 (“40785 Order”) adopted the FCC’s original eligibility requirements for designation of ETCs within the State of Indiana. Accordingly, each Indiana ETC receiving federal universal service support is required by 47 C.F.R. § 54.101(b) to offer the universal services or functionalities set out in 47 C.F.R. § 54.101(a). We note that the FCC modified the list of supported services that must be offered by ETC designees in the *USF/ICC Transformation Order*.² We also note that on February 6, 2012, the FCC released its *Lifeline Reform Order*,³ which is discussed in more detail below. In addition to offering the delineated universal services, to be eligible for designation as an ETC, applicants are required by 47 C.F.R. § 54.405 to offer qualifying low-income customers Lifeline programs. The Petition seeks only a limited designation and thus is presented for the limited purpose of participating in the USF’s Lifeline program as a prepaid wireless carrier. If the Petition is approved, 47 C.F.R. § 54.201(d)(2) will require Petitioner as an ETC receiving federal universal support for Lifeline to publicize the availability and cost of the supported services and the Lifeline programs using media of general distribution throughout the service areas for which the designation is requested. Pursuant to the 40785 Order, carriers seeking ETC designation in Indiana are also required to file proposed tariffs and boundary maps depicting the area(s) for which ETC designation is sought.

On March 17, 2005, the FCC released ETC eligibility guidelines mandating that future ETC designations would require a public interest analysis for applicants regardless of whether the proposed designation area is served by a rural or non-rural carrier. *Federal-State*

² *Connect America Fund*, 26 FCC Rcd 17663 (2011) (“*USF/ICC Transformation Order*”).

³ *Lifeline and Link Up Reform and Modernization*, 27 FCC Rcd 6656 (2012) (“*Lifeline Reform Order*”).

Joint Board on Universal Service, 20 FCC Rcd. 6371, 6389-6390 (2005) (“*2005 FCC ETC Order*”). The Commission adopted the FCC’s new eligibility guidelines by its June 8, 2005 Order in Cause No. 41052 ETC 47. On November 10, 2010, the Commission issued the first “Lifeline-only” ETC designation to Virgin Mobile in Cause No. 41052 ETC 55 (“*Virgin Mobile ETC Order*”). Subsequently, we granted Lifeline-only ETC designations to TracFone Wireless, Inc. in Cause No. 41052 ETC 54; i-Wireless, LLC in Cause No. 41052 ETC 56; TerraCom, Inc. in Cause No. 41052 ETC 60; Telrite Corporation in Cause No. 41052 ETC 58; T-Mobile Central LLC and Powertel/Memphis, Inc. in Cause No. 41052 ETC 61; Budget Mobile in Cause No. 41052 ETC 63; Cricket Communications in Cause No. 41052 ETC 57; and Nexus Communications, Inc. in Cause No. 41052 ETC 59. In each of these Orders, we imposed certain requirements and reporting obligations as a condition of the ETC designation.

Through the *USF/ICC Transformation Order* and the *USF/ICC Clarification Order*,⁴ the FCC revised the ETC designation eligibility requirements by: (1) eliminating the requirement to offer dual tone multi-frequency signaling, single party service, access to operator service, access to interexchange service, and directory assistance from the supported services found in 47 C.F.R. § 54.101(a) to be included in universal service offerings; (2) requiring carriers to certify compliance with the service requirements applicable to the support received, consistent with 47 C.F.R. § 54.202(a)(1)(i); (3) eliminating the additional requirement of offering local usage and providing equal access found in 47 C.F.R. § 54.202; and (4) eliminating the requirement that Lifeline-only applicants submit a 5-year service improvement plan pursuant to 47 C.F.R. § 54.202

The FCC’s *Lifeline Reform Order*⁵ is designed to:

...substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund.

The *Lifeline Reform Order* changed the requirements pertaining to state ETC designations found in 47 C.F.R. § 54.201(h). In the Order, the FCC concluded that “in order to ensure Lifeline-only ETCs, whether designated by the [FCC] or the states, are financially and technically capable of providing Lifeline services, we now include an explicit requirement in section 54.202 that a common carrier seeking to be designated as a Lifeline-only ETC demonstrate its technical and financial capacity to provide the supported service.”⁶ Relevant considerations for such a showing include whether the applicant previously offered services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in

⁴ *Connect America Fund*, 27 FCC Rcd 605(2012) (“*USF/ICC Clarification Order*”).

⁵ *Lifeline Reform Order* at 6659.

⁶ *Id.* at 6819.

any state.⁷

The *Lifeline Reform Order* modified and added new requirements for ETC designation that apply to ETC applications filed with state commissions that specifically adopt the additional requirements. The requirement to demonstrate financial and technical capability was added in 47 C.F.R. § 54.202(a)(4). The requirement to offer a Lifeline plan comparable to the incumbent local exchange carrier (“ILEC”) in the service areas for which it seeks designation was replaced with 47 C.F.R. § 54.202(a)(5), which requires ETC applicants to explain 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. Additionally, once designated by this Commission as a Lifeline ETC, the designee’s Lifeline offerings must reflect a uniform \$9.25 per month federal reimbursement of the Lifeline discount; include specific disclosures in advertising and outreach; include required processes for determining initial and ongoing eligibility; and comply with the reporting and compliance obligations set forth herein. In keeping with the Commission’s past practice of adopting the FCC’s ETC guidelines, we adopt the guidelines and requirements set forth in the *Lifeline Reform Order*, as well as the requirements of the *USF/ICC Transformation Order* and the *USF/ICC Clarification Order*, in addressing the Petitioner’s requested relief.

4. **Evidence Presented.** Jeffrey S. Ansted, American Broadband’s President, testified in support of the Petition. He began by describing American Broadband’s background and communications service offerings. He stated that Petitioner operates in Ohio, Michigan and Indiana, with licenses pending/filed in Wisconsin, West Virginia and Illinois. Mr. Ansted noted that the Petitioner has wireless ETC applications pending in Ohio and Michigan and filed in West Virginia, Illinois and Wisconsin. He testified that American Broadband will offer Lifeline service in all areas in Indiana that are served by its underlying carriers, Sprint PCS and Verizon Wireless. Included with Mr. Ansted’s pre-filed testimony was a map of the areas where the Petitioner seeks designation. However, in response to Presiding Officers’ August 8, 2012 docket entry requesting specificity regarding the service area for which American Broadband sought ETC designation, Petitioner provided a list of non-rural ILEC wire centers and study area codes for Frontier North, Inc and Indiana Bell. Petitioner clarified that it does not intend to provide Lifeline service in rural ILEC territories. In response to questions from the Presiding Officers at the evidentiary hearing, Mr. Ansted testified that Petitioner has been a wireless provider for approximately eighteen months. Mr. Ansted stated that upon the receipt of a Commission order, American Broadband expects to offer service within 30 days.

Mr. Ansted described the recent developments at the federal level that impact ETC designations by state commissions, including the *Lifeline Reform Order*. Mr. Ansted noted that the FCC granted American Broadband’s request for forbearance from the facilities-based service requirement in the *Lifeline Reform Order*. Subsequent to the submission of Mr. Ansted’s testimony, the FCC issued approval of the Petitioner’s Compliance Plan, which was also submitted to the Commission. Mr. Ansted noted that aside from the facilities ownership issue, the *Lifeline Reform Order* does not establish new or additional “ETC designation” requirements that American Broadband does not already address in its Verified Petition.

⁷ *Id.*

Mr. Ansted testified that American Broadband demonstrated its technical and financial ability to offer communications service as a part of its CTA application in 2011. Moreover, he noted that Petitioner is a wireless telecommunications carrier with a national presence that reaches over 10,000 customers. Mr. Ansted indicated that American Broadband has been actively providing service in other states since 2004 and does not rely exclusively on USF disbursements to operate. He stated that American Broadband receives revenue from several non-USF sources and will continue to do so if designated as an ETC. Mr. Ansted testified that American Broadband has not been subject to ETC enforcement or revocation proceedings in any state. Accordingly, Mr. Ansted concluded that American Broadband has the financial and technical capability to provide Lifeline service in compliance with all applicable requirements consistent with 47 C.F.R. § 54.202(a)(4).

Mr. Ansted further testified that American Broadband has met the requirement of 47 C.F.R. §54.202(A)(5) to explain the terms and conditions of the 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. He explained that American Broadband's Terms and Conditions for Lifeline service were provided as Exhibit 1 to its Verified Petition filed in this proceeding. At the evidentiary hearing, Mr. Ansted further clarified that American Broadband's Lifeline plans and airtime minute rates listed in its Compliance Plan included with his prefiled direct testimony includes the proposed Lifeline offerings. Consistent with the FCC's requirements, Mr. Ansted stated that these Terms and Conditions provide details on the number of minutes provided as part of the plan; additional charges, if any, for toll calls; and rates for each plan.

Mr. Ansted also noted that in November, 2011 and February, 2012 respectively, the FCC issued the *USF/ICC Transformation Order*⁸ and the *USF/ICC Clarification Order*.⁹ He noted none of the changes created by these Orders impact American Broadband's eligibility for ETC status.

Mr. Ansted went on to describe the changes imposed by the *Lifeline Reform Order*. Mr. Ansted noted that Petitioner's Lifeline offering complies with the requirements imposed by the *Lifeline Reform Order*. Petitioner's Lifeline offering includes 250 anytime minutes at a monthly price of \$9.25, which translates to no cost to the customer once the \$9.25 uniform Lifeline discount is applied. Petitioner also provided sample advertising, which included disclosures, with its Verified Petition.

Mr. Ansted described the process American Broadband will follow to certify that only qualified applicants enroll and continue to receive Lifeline discounts as detailed in the Petition. He testified that American Broadband's process is compliant with the requirements of the *Lifeline Reform Order*. He noted for initial eligibility certification, where self-certification is required, American Broadband will provide the applicant with a form in which he/she must certify as true, by his or her signature, and under penalty of perjury as set out in 28 U.S.C. §

⁸*In the Matter of Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161, released November 18, 2011 ("USF/ICC Transformation Order").

⁹*In the Matter of Connect America Fund, Order*, DA 12-147, released February 3, 2012 ("USF/ICC Clarification Order").

1746 (2012), that he/she meets the relevant criteria. American Broadband will also place on the Wireless Lifeline Application form language that clearly requires the customer to certify if they are already receiving Lifeline benefits. For program-based eligibility, the form will list each of the qualifying programs, and the applicant will be required to check off the program(s) in which he or she participates. Mr. Ansted stated the applicant will be required to certify as true under penalty of perjury that his or her household income does not exceed the relevant threshold and will be required to provide proof of income based eligibility. Mr. Ansted testified that American Broadband will require every customer enrolled in its Lifeline program to verify his/her continued eligibility on an annual basis, or more frequently if required by the Commission.

Mr. Ansted testified that American Broadband has internal policies in place to handle accounts with non-activity. He stated that American Broadband customers who exceed sixty (60) days without any utilization, will be de-enrolled from Petitioner's wireless Lifeline Program. Upon de-enrollment for non-usage, the wireless subscriber will have up to thirty (30) days to re-enroll by contacting American Broadband. If a customer does not re-enroll or call an American Broadband customer service representative within thirty (30) days of the de-enrollment, the phone service will be deactivated and any airtime will be lost. A deactivated subscriber will be required to provide proof of continued eligibility and pay an activation fee to re-enroll in the Lifeline program.

Mr. Ansted testified that American Broadband is a common carrier as required by 47 C.F.R. § 54.201(d) for purposes of designation as an ETC. Mr. Ansted testified that American Broadband satisfies the FCC and Indiana requirements for ETC designation. He also indicated that American Broadband's designation as an ETC will be in the public interest by resulting in more customer choice and increasing service availability.¹⁰

He indicated that American Broadband offers the supported services in all universal service offerings, consistent with 47 C.F.R. § 54.101. He identified the supported services defined by the FCC, and noted the Petition explains how American Broadband offers each service:

1. Voice-grade access to the public switched telephone network: Voice grade access to the public switched telecommunications network ("PSTN") means the ability to make and receive traditional voice phone calls between the approximately 500 Hertz and 4,000 Hertz for a bandwidth of approximately 3500 Hertz. The voice grade access provided by American Broadband enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call.

2. Local usage: American Broadband provides subscribers the ability to send and receive local phone calls wherever it provides service. Moreover, local usage is included in American Broadband's calling plan. American Broadband's Lifeline customers will receive as part of Lifeline service specified amounts of free Wireless service. Lifeline customers will be able to use American Broadband's service to initiate and receive specified amounts of wireless calling with no additional or minimal charge to the customer.

¹⁰ 47 U.S.C. § 214(e)(2).

3. Access to emergency services: American Broadband provides universal access to the 911 system for its customers. American Broadband has implemented and will continue to implement enhanced 911 (“E911”) services in conformance with the FCC’s requirements when such services are made available by the carriers from whom American Broadband purchases services.

4. Toll limitation for qualifying low-income consumers: American Broadband will offer a toll limitation feature to qualifying low-income customers. Since American Broadband’s service is a prepaid service, no customers will be disconnected for failure to pay toll charges. American Broadband treats long distance minutes of use as any other usage and the customers are not charged separately for toll services. Inasmuch as all American Broadband services are prepaid there is no risk that low income customers will incur excessive usage charges for heavy toll or other calling. Using a third party Toll/Usage limitation service, American Broadband will have the ability to limit each customer to a specific and pre-determined amount of usage.

Mr. Ansted testified that American Broadband will provide Lifeline service throughout its ETC service area consistent with all applicable requirements. He stated that Petitioner will advertise the availability of, and charges for, its Low Income service offerings using media of general distribution, and will undertake outreach initiatives to increase consumer awareness of its Lifeline service offering. Mr. Ansted also stated that American Broadband meets the additional requirements for designation as an ETC as identified in 47 C.F.R. § 54.202 as follows:

- i. American Broadband will serve all consumers within its ETC service area.
- ii. American Broadband has the ability to remain functional in emergency situations. American Broadband provides service in Indiana by reselling services of underlying wireless network carriers, including Sprint PCS and Verizon Wireless. Those network operators have implemented state-of-the-art network reliability standards and American Broadband and its customers benefit from their high standards.
- iii. American Broadband commits to satisfying all applicable state and federal requirements related to consumer protection and service quality standards. Specifically, American Broadband commits to comply with the Cellular Telecommunications and Internet Association’s Consumer Code for Wireless Service. As a reseller, American Broadband’s service is of the same quality and reliability as that of its underlying carrier(s).

Mr. Ansted testified that American Broadband’s billing platform provides daily tax and surcharge reporting for collection of and disbursement to local, state or federal entities as fees are due. Since American Broadband is a prepaid wireless service provider, the Company does not provide traditional monthly billing statements to its customers. Its customers will purchase and subsequently replenish minutes in their accounts in advance. American Broadband either collects applicable fees and surcharges at the point of sale or remits applicable fees and surcharges on behalf of its customers.

Mr. Ansted further noted that American Broadband offers local and long distance usage plans comparable to those offered by the ILECs for their wireless Lifeline offerings. American Broadband's Lifeline offering includes services and features such as a free handset, voicemail, Caller-ID, call waiting, 3-way calling, free customer service calls and balance checks.

Mr. Ansted testified that the designation of American Broadband's wireless service offerings as an ETC is in the public interest for several reasons. A key component of the company's business plan is American Broadband's effort to partner with public sector customers as well as private businesses to promote economic development and growth within Indiana cities, while simultaneously pursuing its Lifeline outreach efforts within its service territory. Mr. Ansted noted that according to American Broadband and USAC data, less than 38% of Hoosiers who are eligible to participate in the Lifeline program are currently enrolled.

Mr. Ansted stated that American Broadband is committed to customer investment. He noted that American Broadband projects that it will create a minimum of 10 distribution and education jobs, and open at least 10 distribution facilities in the first 12 months of operation, which should employ approximately 20 Indiana residents. Mr. Ansted stated that Petitioner also intends on extending its fiber, broadband and telecom network from northwestern Ohio into over a dozen areas designated by the Rural Utilities Service ("RUS"), central offices throughout northeastern Indiana within 24 months of beginning wireless ETC operations in Indiana.

Mr. Ansted noted that designation of American Broadband as an ETC will promote competition and innovation and spur other carriers to target low-income consumers with service offerings tailored to their needs and to improve their existing networks to remain competitive, resulting in improved services to consumers. Mr. Ansted testified that designation of American Broadband as an ETC will help assure that quality services are available at "just, reasonable, and affordable rates" as envisioned in the Act.¹¹

Mr. Ansted noted that American Broadband's approach recognizes the importance of offering access to texting at a very low additional cost. As such, Petitioner's texting add-on plans are up to fifty percent less than other carriers currently offering wireless ETC services in Indiana.

Mr. Ansted testified that American Broadband is willing and able to comply with the following conditions historically imposed by the Commission on Lifeline ETC designees:

1. Petitioner will only receive universal service support once a subscriber activates service. Petitioner will deactivate an account upon 60 days of non-usage as described in my testimony above, and Petitioner will not report such customers on FCC Form 497.
2. Prior to providing Lifeline service, Petitioner will file its tariff and notify the Commission of changes in terms, conditions, or free minute allocations in the form of a new tariff.
3. Petitioner will provide its Lifeline customers with 911 and enhanced 911 access

¹¹See 47 U.S.C. § 254(b)(1).

- regardless of activation status and availability of prepaid minutes as of the date it provides Lifeline services in Indiana.
4. Petitioner will provide its Lifeline customers with E-911 compliant headsets and replace, at no charge, noncompliant headsets of existing customers.
 5. Petitioner will obtain a certification from each Public Safety Answering Point ("PSAP") where it seeks to provide Lifeline service confirming that AB&T provides its customers with 911 and E-911 access or it will self-certify that it does so if certain conditions are not met.
 6. Petitioner will establish safeguards to prevent prospects and customers from receiving multiple Lifeline subsidies at the same address and abide by the FCC's 2011 Duplicative Payments Order by explaining to customers in plain, easily comprehensible language that they are not permitted to receive more than one Lifeline subsidy.
 7. Petitioner will provide the Commission with a copy of its annual Lifeline Verification survey results that it files with USAC as required.
 8. On a quarterly basis Petitioner will provide: a) the number of Lifeline customers that it enrolled during the previous quarter, with the data listed separately for each month; and (b) the number of Lifeline customers deactivated in the previous quarter and the reasons for deactivation.
 9. Petitioner will deal directly with the customer and require each customer to self-certify as true under penalty of perjury that they are the only member of the household receiving the Lifeline discount and that they do not receive the discount for any other phone. Petitioner will require customers to provide documentation demonstrating eligibility based on participation on one of the qualifying low income programs or based upon income.
 10. Petitioner will annually request each Lifeline customer confirm continued eligibility as described in my testimony.
 11. In the event ILAP becomes law, Petitioner will seek Commission approval of any new Lifeline offering subject to the additional Indiana discount.
 12. Petitioner will contribute to the Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired ("InTrac") fund consistent with Commission requirements and Ind. Code ch. 8-1-2.8.
 13. Petitioner will pay all applicable fees.
 14. Petitioner will submit a compliance plan indicating how it will implement the above conditions prior to offering Lifeline service in Indiana.

Petitioner indicated in its Responses to Commission docket entry questions that it does not intend to provide service in rural ILEC territories. Petitioner provided a list of Non Rural Wire Centers and study area codes ("SAC") to correspond with the area for which it seeks Lifeline ETC designation. American Broadband also supplied its proposed tariff including all of American Broadband's proposed Lifeline offerings to Indiana customers and its terms, conditions, fees and charges associated with Petitioner's Lifeline Plan. Petitioner indicated that it has collected Indiana Universal Service Fund ("IUSF") fees beginning with its service launch in Indiana in April of 2012 and noted that American Broadband was registered to remit payments to the IUSF administrator online as of August 9, 2012. American Broadband provided evidence of its InTRAC payments and noted that no public utility fee was due for 2011.

Petitioner verified that the compliance plan included with American Broadband's prefiled direct testimony is consistent with the compliance plan filed with the FCC. In response to questions by the Presiding Officers at the evidentiary hearing, Mr. Ansted stated that with the exception of an update to the customer application, the Compliance Plan filed by American Broadband with the FCC on April 27, 2012 will govern.

5. Commission Discussion and Findings. Universal service funds are provided in four areas: (1) funds to support service to high cost areas; (2) provision of discounted telecommunications and internet access to eligible schools and libraries (also known as the "E-Rate" program); (3) funds to assist low-income customers by provision of a monthly discount on telecommunications costs; and (4) provision of discounted service to rural health care providers. *Comprehensive Review of Universal Service Fund Management, Administration and Oversight*, 22 FCC Rcd 16372, 16374 (2007). American Broadband seeks ETC designation in Indiana for the limited purpose of offering Lifeline service to low-income customers. Accordingly, American Broadband's application does not incorporate the other three Universal Service fund programs. Based on the evidence in the record and the discussion below, we find that Petitioner meets the eligibility criteria for ETC designation as contained in Section 214(e)(1) of the Act and related FCC rules for the limited purpose of offering Lifeline service in Indiana, and satisfies the public interest analysis the Commission is required to perform under the *2005 FCC ETC Order*.

A. Common Carrier Status. The first requirement for ETC designation is status as a common carrier under federal law. A common carrier is generally defined by 47 U.S.C. § 153(11) as any person engaged as a common carrier on a for-hire basis in interstate communication utilizing either wire or radio technology (except for radio broadcasters). As a provider of wireless telecommunications services, we find that American Broadband is a "common carrier" for purposes of obtaining ETC designation under 47 U.S.C. § 214(e)(1).

B. Services Required to be Offered by an ETC. The evidence confirms that upon designation as an ETC in Indiana, American Broadband will provide all of the functionalities required of an ETC in the *Lifeline Reform Order* and pursuant to 47 C.F.R. § 54.101(a) as follows:

i. Voice-grade access to the public switched telephone network. Pursuant to 47 C.F.R. § 54.101(a), eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent. No evidence was presented that American Broadband's customers would not be able to make and receive calls on the public switched telephone network in accordance with the federal rules. Accordingly, we find that American Broadband satisfies this requirement.

ii. Local usage. Eligible voice telephony services must provide minutes of use for local service at no additional charge to end users as part of a universal service offering. As the record demonstrates, American Broadband will offer users the ability to send and receive local phone calls wherever the company offers service. American Broadband indicated that its Lifeline customers will receive for a flat monthly rate, discounted to zero, a

total of 250 minutes per month which may be used for local phone calls. American Broadband's Verified Petition indicates that Petitioner intends to offer Lifeline customers access to a variety of other features at no cost, including voice mail, caller I.D., call waiting services and a free handset. Based on the evidence, we find that American Broadband's offering satisfies this requirement.

iii. Access to Emergency Services. As part of a universal service offering and as required by 47 C.F.R. § 54.101(a), eligible voice telephony services must provide access to the emergency services provided by local government or other public safety organizations, such as 911 and E-911, to the extent the local government in an eligible carrier's service area has implemented 911 or E-911 systems. American Broadband provided evidence that it will work with the PSAPs in the counties where its underlying carriers have coverage and will confirm that those underlying carriers offer E911 service in each such county, based upon the request for service. Based on the foregoing, we find that American Broadband has satisfied this requirement.

iv. Toll Limitation For Qualifying Low-Income Consumers. Voice telephony services eligible for federal universal service support mechanisms must provide toll limitation services to qualifying low-income consumers. Toll limitation allows customers to either block the completion of outgoing long distance calls or specify a certain amount of toll usage to prevent them from incurring significant long distance charges and risking disconnection. American Broadband indicated that to the extent any of its Lifeline offerings now or in the future do not include toll calls for no extra charge, then qualifying Lifeline customers will have access to toll blocking at no charge as part of its Lifeline offerings.¹² Accordingly, we find that American Broadband satisfies this requirement.

C. Lifeline Service Offering Requirements. 47 C.F.R. § 54.202(a)(5) requires common carriers seeking designation as an ETC to 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. American Broadband's Petition indicated it will offer a plan with 250 anytime minutes with options for additional minutes. Mr. Ansted provided evidence that American Broadband's Lifeline plans include a free handset, voicemail, caller-ID, three-way calling, free incoming text messages, free calls to customer service, and free balance checks. The evidence shows American Broadband agrees to comply with all applicable Lifeline requirements upon designation as an ETC.

D. Functionality in Emergency Situations. FCC regulations require that applicants for ETC designation demonstrate their ability to remain functional in emergency situations. 47 C.F.R. § 54.202(a)(2). Mr. Ansted testified that American Broadband has the ability to remain functional in emergency situations. The evidence demonstrates that American Broadband provides access to 911 emergency services for all of its customers by virtue of its use

¹² We noted that in the *Lifeline Reform Order*, the FCC clarified that it does not consider a subscriber who has a Lifeline calling plan that includes a set number of calling minutes available for either local or domestic long distance calls to have voluntarily elected to receive toll limitation support ("TLS"); therefore, TLS will not be provided to ETCs providing such plans. *Lifeline Reform Order* at 6756.

of underlying wireless network carriers, including the Sprint and Verizon Wireless. Those network operators have implemented state-of-the-art network reliability standards and American Broadband and its customers benefit from their high standards. As such, the Commission is satisfied that American Broadband is able to meet this requirement.

E. Advertising Requirements. American Broadband demonstrated that it will broadly advertise the availability and rates for its Lifeline services using a variety of media in conformance with state and federal regulations. American Broadband will implement an advertising plan that will reach consumers using varying media and distribution methods. Based on the foregoing, we find that the evidence of record indicates that American Broadband will comply with 47 U.S.C. § 214(e)(1)(B) and all applicable advertising requirements.

F. Applicant's Designated ETC Service Area. The FCC's rules define a "service area" as a "geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms." 47 C.F.R. § 54.207(a). American Broadband is authorized to provide telecommunications service throughout the State of Indiana, but only intends to offer Lifeline service in certain areas which are depicted in Exhibit 1 of its response to Presiding Officers' August 8, 2012 docket entry questions. American Broadband provided coverage area maps for Sprint and Verizon Wireless (its underlying wireless carriers) and a list of Non Rural Wire Centers and SACs to correspond with the area for which it seeks Lifeline ETC designation. American Broadband clarified that it does not intend to provide service in rural ILEC territories. Based upon the foregoing, we approve American Broadband's proposed service area for Lifeline ETC purposes.

G. Facilities-Ownership. American Broadband will rely on the resale of the services of another carrier. In its *Lifeline Reform Order*, the FCC decided to forbear from the requirement that a Lifeline ETC applicant own its facilities as provided in 47 U.S.C. 214(e)(1), subject to the following conditions including: (a) the carrier must comply with certain 911 requirements; and (b) the carrier must obtain an FCC approved compliance plan providing specific information regarding the carrier's service offerings and outlining the measure the carrier will take to implement the obligations contained in the *Lifeline Reform Order* as well as further safeguards against waste, fraud and abuse the FCC may deem necessary.¹³ As Mr. Ansted noted, the FCC granted American Broadband's request for forbearance from the facilities-based service requirement in the *Lifeline Reform Order*. The FCC has also approved American Broadband's Compliance Plan and Mr. Ansted confirmed at the evidentiary hearing that American Broadband's Lifeline offerings in Indiana will be consistent with the requirements in its FCC Compliance Plan. Accordingly, we find that American Broadband has secured the required forbearance from the FCC from the facilities ownership requirement.

In prior Orders granting ETC designation to wireless resellers, the Commission has required the reseller to obtain certification regarding 911 capabilities from each PSAP in its proposed service area. This requirement was consistent with federal requirements. However, the FCC has since determined that resellers no longer need to obtain these certifications, but that states may impose a self-certification requirement. *Lifeline Reform Order* at 6815. In an effort to ensure the availability of information concerning the provision of, and access to, 911 and

¹³*Id.* at ¶368.

E911 services, it is necessary to have a clear understanding of where a wireless reseller ETC is obligated to provide 911 service and which facilities-based wireless carrier(s)' services an ETC is reselling. Therefore, in this instance, we find that it is in the public interest to require American Broadband to: (1) certify that it provides subscribers with 911 and E911 access by providing a letter from its underlying facilities-based wireless carrier(s) which affirms the facilities-based wireless carrier is the underlying carrier for the reseller, and it routes all 911 calls from the resellers' customers to the PSAP in the same manner that it routes 911 calls from its own customers; and (2) provide a self-certification that it is 911 compliant. The certifications shall be submitted to the Commission with copies to the OUCC and the Statewide 911 Board prior to offering Lifeline service in Indiana.

H. Public Interest Considerations. As noted above and in accordance with 47 C.F.R. § 54.202(b), the designation of American Broadband as an ETC requires a public interest analysis. *See also 2005 FCC ETC Order* at 6389-6390. In the absence of statutory strictures for evaluating the public interest, the FCC has recommended that ETC designations be analyzed "in a manner that is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; ensuring the availability of quality telecommunication services at just, reasonable, and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas." *2005 FCC ETC Order* at 6388.

i. Use of Lifeline Funding. The record indicates that American Broadband will use funds from the federal Lifeline program to provide supported services to Lifeline customers. American Broadband has met its burden of proof for the Lifeline program. We also note that American Broadband will be subject to federal recordkeeping and auditing requirements in 47 C.F.R. § 54.417 and 47 C.F.R. § 54.420 respectively. Accordingly, we find that American Broadband's plans are consistent with current FCC regulations on the use of such funds.

ii. Impact on the Universal Service Fund. We have previously recognized that the FCC has undertaken various steps to address the explosive growth in high-cost universal support disbursements. *Perry-Spencer Communications, Inc.*, Cause No. 41052 ETC 53, 2008 Ind. PUC LEXIS 510, at *33 (IURC July 24, 2008). Notably, American Broadband is not seeking access to funding from the federal USF to provide service to high-cost areas. However, we also recognize that costs for the low income portion of the universal service fund are increasing rapidly. While it is in the public interest that Lifeline-eligible customers get connected to affordable telecommunications service, preventing misuse of the Lifeline program is necessary to control unproductive growth of the fund and increased USF surcharges for all Indiana telecommunications customers.

We have historically underscored our concern that prepaid wireless providers may be especially vulnerable to misapplication of the program due to the appeal of free phones and free minutes. Therefore, we find as we did in the Virgin Mobile ETC Order that the public interest requires we impose certain safeguards on American Broadband. To ensure a prepaid Lifeline offering does not unnecessarily increase USF expenditures, we condition our approval on American Broadband's adoption of policies to control waste, fraud and abuse of the Lifeline program, such as terminating service to inactive customers after 60 days of inactivity as

described in 47 C.F.R. § 54.405(e)(3); dealing directly with the customer; and obtaining documentation from the customer which demonstrates eligibility. Provided these requirements are satisfied, along with other conditions and safeguards enumerated in this Order and in FCC rules to deter waste, fraud and abuse, we find that American Broadband's Lifeline-only designation should not have an excessive impact on the universal service fund.

iii. Consumer Protection. One of the requirements established by the 2005 FCC ETC Order was that, regardless of certification date, all ETCs must submit to the FCC, on an annual basis, certification that the ETC is complying with applicable service quality standards and consumer protection rules. 47 C.F.R. § 54.202(a)(3). Mr. Ansted stated that American Broadband abides by the CTIA Consumer Code and commits to complying with the applicable consumer protection requirements.

iv. Creamskimming. The FCC identified creamskimming as an appropriate factor to consider in "areas where an ETC applicant seeks designation below the study area level of a rural company." See 47 CFR § 54.202(b). That type of analysis is unnecessary in this case since American Broadband does not intend to provide service in rural ILEC territories. See 2005 FCC ETC Order.

v. Increased Customer Choice. Currently in Indiana all ILECs are required to provide the Lifeline discount to eligible customers. In light of Indiana's low Lifeline take rate and the recent ETC relinquishments by other Indiana carriers, we find that American Broadband's Lifeline offering brings increased competitive choice to the Lifeline-eligible customers in Indiana and may further assist in reaching additional Lifeline-eligible customers. Based on the record, we find that American Broadband's designation as an ETC will increase the level of customer choice and may promote competition by expanding the availability of wireless services to qualifying Indiana customers, leading to lower prices.

vi. Affordable Rates. We must also consider whether designation as an ETC will "ensur[e] the availability of quality telecommunications services at just, reasonable, and affordable rates[.]" 2005 FCC ETC Order at 6388. American Broadband presented evidence that its Lifeline offering will be offered at no cost to qualified customers, based upon the uniform Lifeline discount of \$9.25 per month, and includes 250 anytime minutes (with options for additional minutes). At the evidentiary hearing, Petitioner clarified that the additional minute packages as specified in its Compliance Plan can be purchased starting at \$3.99 for 100 talk or text minutes. The Lifeline offering includes a free handset, call waiting, three-way calling, caller identification and voice mail. Accordingly, we find that the designation of American Broadband as an ETC would serve the public interest by ensuring the availability of telecommunications services at just, reasonable and affordable rates. Therefore, American Broadband should file tariffs consistent with the testimony filed herein and this Order prior to offering Lifeline services in Indiana.

vii. Advantages and Disadvantages of the Offering. The record reflects that American Broadband's service offering provides a unique alternative to other

wireless ETCs' Lifeline offerings and ILEC Lifeline plans. American Broadband offers typical allotments of free minutes to Lifeline customers and competitive per minute rates for additional airtime minutes. In addition, a key component of American Broadband's business plan is its effort to partner with public sector customers as well as private businesses to promote economic development and growth within Indiana cities, while simultaneously pursuing its Lifeline outreach efforts within its service territory. Accordingly, we find that American Broadband has satisfied this criterion of our public interest inquiry.

viii. Deployment of or Improvement to Indiana Network Facilities.

The record reflects that American Broadband depends in part upon the facilities of Sprint Nextel and Verizon Wireless for its service. We find that American Broadband's patronage of Verizon Wireless and Sprint Nextel will likely incentivize those carriers to maintain, improve and expand their Indiana network facilities. American Broadband also noted that it intends to extend its fiber, broadband and telecom network from northwestern Ohio into northeastern Indiana within 24 months of beginning wireless ETC operations in Indiana. Based on this evidence, we conclude that this element of our inquiry has been satisfactorily met.

ix. Commitment to Provide Service Upon Reasonable Request.

American Broadband provided evidence that its underlying carriers currently have wireless coverage throughout a significant portion of Indiana and that it has plans to build out its own facilities to cover unserved areas. American Broadband stated that to the extent that it does not currently have wireless coverage within a portion of its proposed ETC service area, it will consider requests for service consistent with its universal service obligations. We find that American Broadband's commitments satisfy the requirements of 47 C.F.R. §54.202(a)(1)(i).¹⁴ Accordingly, we find American Broadband has demonstrated its willingness and ability to provide service throughout its requested service area.

x. Additional Public Interest Analysis.

ETC designation confers both benefits and burdens upon the petitioning telecommunications service provider. Because the designation gives the provider the right to apply for federal universal service funds, it is essential that the provider comply with its obligations to contribute to public interest funds and not have a competitive advantage over other Indiana telecommunications carriers by avoiding such obligations. We find that it would not be competitively neutral to designate an ETC permitting it to collect public funds, yet not contribute appropriately to public interest funds from which its network and its customers benefit. American Broadband has testified to its willingness to comply with Indiana laws and policies regarding public interest funds for which the Commission has administrative oversight, including the public utility fee pursuant to Ind. Code ch. 8-1-6; the InTRAC fee pursuant to Ind. Code ch. 8-1-2.8; and the Indiana USF fee pursuant to the Commission's Order in

¹⁴ In the *USF/ICC Transformation Order*, the FCC revised the service provisioning requirements to eliminate the prior rule requiring a carrier to meet requests for service using a 6-step provisioning process, which this Commission also required of ETCs. See *Re Designation of Eligible Telecommunications Carriers*, Cause No. 41052 ETC 47 (IURC 3/17/2007) at 10-11. The FCC now requires carriers to certify that they will comply with the service requirements applicable to the support that they receive. American Broadband has certified that it will comply with the service requirements applicable to Lifeline only providers.

Commission Investigation of Universal Service Reform, Cause No. 42144, 2004 Ind. PUC LEXIS 61 (IURC March 17, 2004) (“42144 Order”). Based on the foregoing public interest analysis, we conclude that designating American Broadband as an ETC will promote the public interest and further the goals of the Act.

6. Regulatory Oversight. The Commission has recognized certain specific regulatory requirements that competitive wireless ETC applicants must satisfy in order to secure and maintain their ETC status in Indiana. *See, e.g., NPCR, Inc. d/b/a Nextel Partners*, Cause No. 41052 ETC 43, 2004 Ind. PUC LEXIS 87, at *84 (IURC March 17, 2004). Such regulatory requirements stem from the FCC’s mandate that state commissions certify federal USF support is being used “only for the provision, maintenance and upgrading of facilities and services for which the support is intended,” consistent with 47 U.S.C. § 254(e). Absent such a certification, carriers will not receive such support. In order to satisfy its ETC certification requirements to the FCC, the Commission requires ETC applicants to file a tariff with the Commission and track its USF expenditures. *See* 40785 Order. The record reflects American Broadband’s intention to comply with the Commission’s Lifeline tariff filing requirement. American Broadband must also comply with USF tracking requirements the Commission previously established to ensure that funds received from USAC for Indiana are devoted to furthering universal service goals within American Broadband’s designated service area. Accordingly, we find that American Broadband’s terms and conditions of service should be incorporated into its Lifeline tariff for Indiana and filed with the Commission’s Communications Division for review prior to American Broadband making its universal service offering available to eligible consumers in Indiana.

In previous ETC designations of prepaid wireless Lifeline providers, the Commission (and the FCC) imposed a condition that the ETC deal directly with the customer as an additional safeguard to prevent abuse of the Lifeline program. In its testimony, American Broadband committed to comply with the condition that it deal directly with the customer. American Broadband further agreed to require each customer to self-certify as true under penalty of perjury that they are the only member of a household receiving the Lifeline discount and that they do not receive the Lifeline discount for any other phone. Mr. Ansted indicated that American Broadband will require Lifeline customers to provide documentation to demonstrate that they are eligible for Lifeline service. We find that American Broadband shall abide by the applicable regulations of the FCC and the Commission regarding certification and verification of customer eligibility.

7. Prospective ETC Reporting Requirements. Finally, we find that American Broadband should be required to meet the prospective reporting requirements consistent with new federal rules in 47 C.F.R § 54.422 which include reporting: (1) the ETC’s holding company and operating names, any affiliate relationships, and branding as well as universal service identifiers; (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; (3) detailed information on any outages in the prior calendar year; (4) number of complaints per 1000 handsets; (5) certification of compliance with applicable service quality standards; and (6) certification that the carrier is able to function in emergency situations.

American Broadband's compliance filings shall be filed under this Cause at the same time it files its annual report pursuant to 47 C.F.R. § 54.422, unless otherwise directed by the Commission.

8. Conditions on American Broadband's Designation as an ETC. In accordance with the Commission's findings above, American Broadband shall be subject to the following conditions:

- (a) Approval shall be subject to American Broadband's Compliance Plan approved by the FCC and subject to the Lifeline plans, rates, conditions and procedures set forth in the Compliance Plan.
- (b) Consistent with 47 C.F.R. § 54.407, American Broadband shall not receive universal service support for a subscriber to lifeline service until the subscriber activates the service.
- (c) American Broadband shall deactivate a Lifeline account if the customer has no usage for 60 consecutive days. American Broadband shall report annually the number of subscribers de-enrolled for non-usage under 47 C.F.R. § 54.405(e)(3). This de-enrollment information must be reported by month and must be submitted to the Commission at the time an eligible telecommunications carrier submits its annual certification report pursuant to 47 C.F.R. § 54.416.
- (d) American Broadband is authorized to offer Lifeline eligible customers Lifeline packages as set forth herein, which shall include a minimum of 250 anytime minutes. Prior to providing Lifeline service in Indiana, American Broadband shall file a tariff of its proposed offering and notify the Commission in the form of a new tariff if any terms, conditions or allocation of free minutes change.
- (e) American Broadband shall provide its Lifeline customers with 911 and E-911 access regardless of activation status and availability of prepaid minutes as of the date it provides Lifeline services in Indiana.
- (f) American Broadband shall provide its Lifeline customers with E-911 compliant handsets and replace, at no additional charge, noncompliant handsets of existing customers who obtain Lifeline supported services as of the date it provides Lifeline services in Indiana.
- (g) American Broadband shall certify 911 compliance in accordance with Paragraph 5.G. above.
- (h) American Broadband shall establish safeguards to prevent its customers from receiving multiple Lifeline subsidies at the same address as required by 47 C.F.R. § 54.405 and abide by the *Lifeline Reform Order* and the FCC's *2011 Duplicative*

*Program Payments Order*¹⁵, which requires ETCs to explain to consumers in plain, easily comprehensible language that they are not permitted to receive more than one Lifeline subsidy.

- (i) On a quarterly basis American Broadband shall provide: (1) the number of Indiana Lifeline customers that it enrolled during the previous quarter, with the data listed separately for each month; (2) the number of deactivated Lifeline customers for each month in the previous quarter and the reasons for deactivation (e.g., no usage for 60 consecutive days, unsuccessful annual verification, or voluntary exit); and (3) an update on American Broadband's investment in establishing stores and hiring employees in Indiana. Quarterly reports shall be filed with the Commission no later than 30 days after the end of each quarter. American Broadband will continue to make such quarterly filings until otherwise instructed by the Commission.
- (j) American Broadband shall certify the eligibility of Lifeline customers pursuant to 47 C.F.R. § 54.410 requiring prospective Lifeline customers to demonstrate that they are eligible for Lifeline based upon participation in one of the qualifying low income programs or based upon income.
- (k) Pursuant to 47 C.F.R. § 54.410, American Broadband shall notify each Lifeline customer on an annual basis and request confirmation of continued eligibility by requiring that the customer re-certify continued eligibility for the discount based upon income or participation in a qualifying low income program. Such verification will be required in order for the consumer to continue to purchase prepaid airtime at the discounted rate. Consistent with the changes precipitated by the *Lifeline Reform Order* relating to the timing of verifications to USAC and the FCC, American Broadband shall provide the Commission with a copy of its Lifeline re-certification results that it files annually with USAC by January 31 each year.
- (l) In the event the ILAP is fully implemented, American Broadband shall seek Commission approval of its new Lifeline offering subject to the additional Indiana discount.
- (m) American Broadband shall contribute to the InTRAC Fund on a monthly basis in an amount equal to the Commission approved InTRAC monthly surcharge multiplied by the number of active American Broadband accounts during each month, consistent with the Commission's January 19, 2005 Order in Cause No. 39880 and Ind. Code ch. 8-1-2.8.
- (n) American Broadband shall pay applicable fees, such as the public utility fee, pursuant to Ind. Code ch. 8-1-6; the InTRAC fee pursuant to Ind. Code ch. 8-1-

¹⁵ *Lifeline and Link Up Reform and Modernization*, 26 FCC Rcd 9022, 9027-9028 (2011).

2.8; the Indiana USF fee pursuant to the 42144 Order; the wireless emergency E-911 fee pursuant to Ind. Code § 36-8-16.5-30.5 and any other applicable fees.

We therefore find, based on the evidence presented, American Broadband has met all of the ETC eligibility requirements and that the public interest supports granting ETC status to American Broadband for the limited purpose of participation in the Lifeline program. We find that making American Broadband's Lifeline service available to eligible customers will increase customer choice and will not adversely affect the USF. American Broadband has the financial and technical capability to provide Lifeline service in compliance with State and Federal law. American Broadband has also demonstrated the ability to satisfy the obligation to serve the designated service areas within a reasonable time frame. Finally, we note that the Commission has the statutory authority to investigate, as it deems necessary, American Broadband's compliance with this Order and its eligibility for ETC designation. We further find that American Broadband should be subject to the prospective reporting requirements and conditions set forth herein.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. American Broadband's petition for designation as an Eligible Telecommunications Carrier for the limited purpose of participation in the Universal Service Fund's Lifeline program, for the service areas identified in American Broadband's evidence, shall be and hereby is granted.

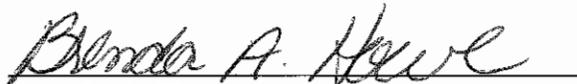
2. American Broadband's request for authority to apply for or receive universal service funds from the Lifeline program pursuant to 47 U.S.C. § 254 shall be and hereby is granted, subject to American Broadband's compliance with the terms, conditions and reporting requirements of this Order and other applicable laws.

3. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: DEC 27 2012

I hereby certify that the above is a true and correct copy of the Order as approved.


Brenda A. Howe
Secretary to the Commission