

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: January 28, 2015

REGULAR _____ CONSENT X EFFECTIVE DATE January 28, 2015

DATE: January 20, 2015

TO: Public Utility Commission

FROM: Kay Marinos ^{KM}

THROUGH: Jason Eisdorfer and Bryan Conway ^{JE} ^{BC}

SUBJECT: CRICKET COMMUNICATIONS, INC.: (Docket No. UM 1625) Application to Relinquish ETC and ETP Designations.

STAFF RECOMMENDATION:

Grant the Application of Cricket Communications, Inc. to Relinquish its Designation as an Eligible Telecommunications Carrier (ETC) and Eligible Telecommunications Provider (ETP) effective July 1, 2015, subject to commitments made in the Application.

DISCUSSION:

Background

Cricket Communications, Inc. (Cricket) is a facilities-based provider of prepaid wireless services. The Commission first granted ETC and ETP designations to Cricket on February 25, 2010.¹ On January 29, 2013, the Commission approved a subsequent application to expand Cricket's designated service area beyond the original boundaries.² The designations enabled Cricket to participate in the federal Lifeline program and the Oregon Telephone Assistance Program (OTAP), respectively, in order to offer combined federal and state Lifeline discounts on its mobile voice service offerings to qualifying low-income customers. Cricket did not seek or receive federal high-cost support. Cricket's designated service area for Lifeline and OTAP services generally covers the I-5 corridor and a portion of Eastern Oregon near the southern Idaho border.

¹ See Order No. 10-070 in Docket No. UM 1456.

² See Order No. 13-023 in Docket No. UM 1625.

On March 13, 2014, Cricket was acquired by AT&T, Inc. (AT&T).³ The Cricket entity (Legacy Cricket) remained intact and became a subsidiary of AT&T. AT&T already owned a subsidiary, Aio Wireless (Aio), that offered prepaid wireless services. An important difference between Cricket and Aio is the type of technology used in their networks. Cricket's network is based on CDMA technology, while Aio's network utilizes AT&T's 4G network with GSM technology. The two technologies are not compatible. Shortly after acquiring Cricket, on May 18, 2014, AT&T launched the "New Cricket" brand. New Cricket customers would utilize the AT&T GSM network rather than the Cricket CDMA network. AT&T planned to shut down the Legacy Cricket network and migrate customers to the New Cricket network and rate plans. However, terms of the FCC approval order required continuation of Legacy Cricket service offerings for a minimum time period and until the CDMA network was shut down. Because Legacy Cricket is the entity with ETC status, the company continued to offer Lifeline services through that entity. However, because New Cricket services are offered through a separate, although affiliated, entity that does not have ETC status, no Lifeline services were made available to its customers. Unfortunately, this approach led to confusion among the shared Cricket sales and service representatives, particularly in relation to Lifeline service, and ultimately to confusion among Cricket customers.

After receiving several calls from Cricket customers, OTAP personnel contacted Cricket to obtain information about how the company was handling Lifeline services and what they were telling customers. Representatives from Cricket began working with Commission Staff (Staff) to share information and help clear up the confusion. Cricket planned to shut down the Legacy Cricket network and relinquish ETC status on a schedule that varied across states. Once the company firmed up its schedule for Oregon, Staff invited the Citizens' Utility Board of Oregon (CUB) to join monthly discussions regarding how to minimize the impacts on Cricket's Oregon Lifeline customers. Cricket also worked with Staff to monitor Lifeline customer migration and de-enrollments. This effort was significant because Cricket had one of the largest Lifeline customer bases in the state. Although more than half of Cricket's Lifeline customers have already migrated to other services or service providers, there are still approximately 9,000 Cricket customers currently receiving Lifeline and OTAP discounts in Oregon.

After many months of coordination and discussions with Staff and CUB, on December 4, 2014, Cricket filed an Application to Relinquish its Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider in

³ See *Applications of Cricket License Company, LLC et al., Leap Wireless International, Inc., and AT&T Inc. for Consent to Transfer Control of Authorizations, Application of Cricket License Company, LLC and Leap Licenseco Inc. for Consent to Assignment of Authorization*, Memorandum Opinion and Order, WT Docket No. 13-193, DA 14-349 (released March 13, 2014)("Cricket Transfer Order").

Oregon. The Application reflects the agreements that Cricket, Staff, and CUB reached regarding significant aspects of Cricket's transition out of the Lifeline market in Oregon. Staff appreciates Cricket's cooperation and willingness to address the concerns raised. Staff also thanks CUB for its contributions to these efforts.

Staff's Analysis

The federal requirements for ETC relinquishment are set forth in both 47 U.S.C. § 214(e)(4) and in 47 C.F.R. § 54.205(a), and are similar in each case. First, an ETC must provide advance notice of relinquishment to the state commission that granted its ETC designation. After receiving such notice, the state commission shall permit an ETC to relinquish its designation if there will be at least one ETC remaining in the area and all customers of the relinquishing carrier can obtain service from the remaining ETC(s). If this condition cannot be met, the Commission shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining ETCs.

There are no Oregon-specific requirements for ETC relinquishment beyond the federal requirements, nor are there any specific rules regarding requirements for ETP relinquishment. However, because ETP designation requires federal ETC status, relinquishment of ETC designation effectively terminates ETP status as well.

Cricket demonstrates in its Notice that it meets the basic federal requirements for ETC relinquishment. The filing provides the required advance notice of relinquishment to the Commission. In each wire center of Cricket's designated service area, there will remain at least one ETC, i.e., an incumbent local exchange carrier (ILEC), which will continue to offer local exchange voice services and associated Lifeline discounts within the wire center. Therefore, no purchase or construction of facilities will be required because of Cricket's relinquishment. Additionally, Cricket customers may choose to receive service through New Cricket which offers competitive plans that may suit the needs of low-income customers without participation in the federal Lifeline program or OTAP. A few other wireless ETCs, such as TracFone and Virgin Mobile, offer wireless Lifeline services in parts of Cricket's ETC area and may serve as alternative providers for some of Cricket's current Lifeline wireless customers.

Although Cricket meets the basic federal requirements for ETC relinquishment, those requirements do not address several aspects of potential impacts on customers, such as adequate notice periods. Nor do the Commission's own rules for abandonment of service apply to wireless service providers such as Cricket. However, as mentioned above, Cricket worked with Commission Staff and CUB to determine ways to minimize

the impacts of relinquishment on its customers. The specific actions that were agreed upon and are specified in Cricket's application include the following:

1. Cricket will relinquish its ETC and ETP designations effective July 1, 2015;⁴
2. Cricket will stop accepting new Lifeline customers the day following Commission authorization of relinquishment, i.e. January 29, 2015, in order to avoid new customers having to change providers again shortly after enrollment;
3. Cricket will continue to make available Lifeline and OTAP discounts to existing Lifeline customers until the effective date of relinquishment;
4. On or before April 30, 2015, Cricket will mail each of its Lifeline customers a notice explaining that after June 30, 2015, Cricket will no longer offer Lifeline service in Oregon. The notice will include other relevant information regarding customer options and the available resources for additional information and assistance, as contained in the draft notice included in Cricket's Application; and
5. Cricket will also send each remaining Lifeline customer a text message during or before the first week of May, as well as during or before the first week of June, as described in Cricket's Application.

AT&T made several commitments to the FCC in its request for approval to acquire Cricket. These commitments are described by the FCC in its *Cricket Transfer Order*. One of the commitments was to continue to provide, at its own expense and even after ETC relinquishment, a discount equivalent to the Lifeline discount to existing Lifeline customers. Such discounts are to be provided until the earlier of such time as the customer voluntarily upgrades his or her device, chooses another rate plan, suspends service, migrates to the New Cricket GSM platform, or until the sunset of the CDMA network. Another commitment addressed implementation of a handset trade-in program for Cricket customers with handsets that are incompatible with the New Cricket network. Staff assumes that Cricket will honor these commitments and that the FCC will make sure that it does. In any event, Staff has made clear, and Cricket has agreed, that the company will not seek federal or OTAP reimbursement for any discounts given to Oregon customers for any period after the ETC relinquishment date.

⁴ A relinquishment effective date of July 1, 2015, means that Cricket will cease being an ETC after June 30, 2015.

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In summary, Staff recommends Commission approval of Cricket's relinquishment of its ETC and ETP designations as the company has met the legal requirements for relinquishment and has committed to take actions designed to ease the impacts of relinquishment on its Oregon Lifeline customers.

PROPOSED COMMISSION MOTION:

The Commission grant relinquishment of Cricket Communications, Inc.'s ETC and ETP designations in Oregon, effective July 1, 2015, subject to the commitments made in Cricket's Application.

Ca13-UM 1625