

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 24, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Weisenfeld, Tan) *TLT*
Office of Industry Development and Market Analysis (Deas, Yglesias de Ayala) *CH*

RE: Docket No. 20200147-TP – Petition for designation as an eligible telecommunications carrier (ETC) in the State of Florida by TruConnect Communications, Inc.

AGENDA: 07/07/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

TruConnect Communications, Inc. (TruConnect or Company) is a provider of commercial mobile radio service. The Company uses the underlying wireless networks of facilities-based providers on a wholesale basis to provide its customers with prepaid wireless telecommunications services nationwide. TruConnect is a subsidiary of TSC Acquisition Corporation (TSC).¹ TruConnect is currently designated and operating as a wireless eligible telecommunications carrier (ETC) in California and the U.S. Virgin Islands.

¹ TSC also owns Sage Telecom Communications, LLC d/b/a TruConnect (Sage d/b/a TruConnect). Sage d/b/a TruConnect is designated and operating as a wireless ETC in 28 states, as well as in Puerto Rico.

ETC designation is a requirement for telecommunications carriers to receive federal Universal Service Funds (USF) for the Lifeline and High Cost programs. The Lifeline program enables low-income households to obtain and maintain basic telephone and broadband services, and offers qualifying households a discount on their monthly bills. The High Cost program, known as the Connect America Fund (CAF), helps carriers provide voice and broadband service in remote and underserved communities.

In August of 2013, TruConnect filed a petition with the Federal Communications Commission (FCC) seeking designation as an ETC in the State of Florida to provide Lifeline service to qualifying consumers. TruConnect asserts that the FCC has not processed any pending wireless ETC petitions since 2012. Since TruConnect has not received an ETC determination from the FCC, on May 8, 2020, TruConnect filed a petition with the Florida Public Service Commission (Commission) seeking designation as an ETC in the State of Florida.² Without either a state or federal ETC designation, a telecommunications company is not eligible to receive reimbursement from the USF for providing a Lifeline discount to a qualifying customer. In its petition, TruConnect requests that the Commission reassert jurisdiction over wireless ETC designation, and seeks ETC designation to provide Lifeline service solely to qualifying Florida consumers. TruConnect will only seek reimbursement of federal funds from the Lifeline program, and will not seek support from either the Link-Up or High-Cost programs.

Section 214(e)(2) of the Telecommunications Act of 1996 authorizes state commissions to designate common carriers as an ETC. In cases where a state commission lacks jurisdiction, Section 214(e)(6) provides that the FCC will make such ETC designations. Relevant to TruConnect's petition, Section 364.011(4), Florida Statutes (F.S.), exempts wireless telecommunications, including commercial mobile radio service providers, from Commission jurisdiction and oversight.

² TruConnect's petition filed with the Commission (Petition for Declaratory Ruling and Designation as an Eligible Telecommunications Carrier) was not treated as a petition for declaratory statement because it was not filed under Section 120.565, F.S., the statute that governs petitions for declaratory statement.

Discussion of Issues

Issue 1: Should the Commission grant TruConnect Communications, Inc. ETC status in Florida?

Recommendation: No. Staff recommends that the Commission should not grant TruConnect Communications, Inc. ETC status in Florida. (Weisenfeld, Deas, Yglesias de Ayala)

Staff Analysis:

Pursuant to federal law, the Commission has the authority to designate carriers as ETCs if they meet certain requirements.³ In 2011, the Florida Legislature removed the Commission's authority to designate wireless providers as ETCs.⁴ Consequently, effective July 1, 2012, the Commission evaluates only wireline ETC applications. Wireless providers must apply directly with the FCC for Florida ETC designation. Most recently, the Commission concluded it did not have jurisdiction to designate a satellite company as an ETC in Florida because like wireless providers, a satellite provider is not a wireline provider.⁵ Furthermore, Section 364.011(4), F.S., provides that wireless telecommunications, including commercial mobile radio service providers, are exempt from oversight by the Commission.

TruConnect is a provider of commercial mobile radio service. As a commercial mobile radio service provider, TruConnect is considered a wireless provider and therefore exempt from Commission jurisdiction, and should continue to seek ETC designation in Florida from the FCC. Accordingly, staff recommends that the Commission deny TruConnect ETC designation in Florida, because the Commission has authority to evaluate only wireline ETC applications.

³ Section 214(e)(2) of the Telecommunications Act of 1996.

⁴ 2011 FL H.B. 1231, Adopted May 5, 2011.

⁵ Order No. PSC-2018-0531-PAA-TC, issued November 13, 2018, in Docket No. 20180180-TX, In re: *Application for limited designation as an eligible telecommunications carrier (ETC) to receive Connect America Fund Phase II Auction (Auction 903) support for voice and broadband services with request for expedited consideration by Viasat Carrier Services, Inc.*

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, this docket should be closed upon the issuance of a consummating order. (Weisenfeld)

Staff Analysis: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.