

**BEFORE THE  
NEW JERSEY BOARD OF PUBLIC UTILITIES**

In the Matter of )  
 )  
 )  
Petition of ) Docket No. \_\_\_\_\_  
XCHANGE TELECOM LLC for )  
Designation as an Eligible Telecommunications )  
Carrier in the State of New Jersey )

**PETITION OF XCHANGE TELECOM LLC  
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER  
IN THE STATE OF NEW JERSEY**

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**I. INTRODUCTION**

Xchange Telecom LLC (“Xchange” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)<sup>1</sup> and Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),<sup>2</sup> and the rules and regulations of the New Jersey Board of Public Utilities (“Board”), hereby submits this Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of New Jersey. Xchange seeks ETC designation solely to provide Lifeline service to qualifying New Jersey consumers; it will not seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of participating in the Link-Up program or providing service to high cost areas.<sup>3</sup> As demonstrated herein, and as certified in Exhibit 1, Xchange meets all the statutory and regulatory requirements for designation as an ETC in the State of New Jersey, including the new requirements outlined in the FCC’s *USF/ICC Transformation Order*<sup>4</sup>, *Lifeline*

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<sup>1</sup> 47 U.S.C. § 214(e)(2).

<sup>2</sup> 47 C.F.R. §§ 54.101-54.207.

<sup>3</sup> Given that Xchange only seeks support from the low-income program and does not seek any high-cost support, ETC certification requirements for the high-cost program are not applicable to the Company.

<sup>4</sup> *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform –*

and *Link Up Reform Order*<sup>5</sup> and *Lifeline Modernization Order*<sup>6</sup> Rapid grant of Xchange’s request, moreover, would advance the public interest because it would enable the Company to commence much needed Lifeline service to low-income New Jersey residents as soon as possible, especially in the midst of the current national state of emergency. Accordingly, the Company respectfully requests that the Board expeditiously approve this Petition for ETC designation.

All correspondence, communications, pleadings, notices, orders and decisions relating to this Petition should be addressed to:

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Attorneys for Xchange Telecom LLC

## II. UNIVERSAL SERVICE OFFERING

### A. Company Overview

Xchange is a Delaware Limited Liability Company<sup>7</sup> with its principal office located at 3611 14<sup>th</sup> Ave., Suite 550, Brooklyn, NY 11218.

Xchange is a Competitive Local Exchange Carrier (“CLEC”), having received authority to

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*Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“*USF/ICC Transformation Order*”).

<sup>5</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline and Link Up Reform Order*”).

<sup>6</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket No. 11-42, WC Docket No. 00-197, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (hereinafter, “*Third Report and Order*” or “*Lifeline Modernization Order*”).

<sup>7</sup> Xchange was incorporated in Delaware on March 13, 2002, and authorized to do business in the State of New York on May 1, 2002. Xchange converted to a Delaware Limited Liability Company pursuant to § 18-214 of the Delaware Limited Liability Act on 9/30/2014. A Certificate of Authority was filed with the State of New Jersey on, and a Certificate for the converted LLC was filed on October 20, 2014.

offer services in New York<sup>8</sup>, New Jersey<sup>9</sup> and Maryland<sup>10</sup>. Xchange provides wireline services pursuant to these authorities to over 18,000 residential lines in NY, NJ and MD. Xchange is currently designated and operating as a wireline ETC in New York State.<sup>11</sup> Xchange has more than 7700 lifeline customers in NY.

**Xchange's Wireline Offerings.** Xchange offers wireline services either by reselling the ILEC (Verizon's) loop on a tariff basis, where Xchange provides the backbone network to the PSTN (unbundled loops or "UNE-L"); via a wholesale agreement with Verizon where Xchange resells Verizon's copper or fiber service ("UNEP" or "FTTP", respectively) and via fixed wireless, where Xchange owns the network and links the customer to Xchange's network via a fixed wireless solution ("Fixed Wireless"). Xchange's wireline services are reliable, affordable, easy to use, and attractive to low- income and lower-volume consumers, providing them with access to emergency services and a reliable means of communication to remain in touch with friends and family and for contacting prospective employers, as well as quality high-speed broadband services. Xchange offers consumers simple and affordable calling plans and broadband tiers, and high-quality customer service. Xchange does not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service. Finally, Xchange voluntarily accepts and adheres to the Net Neutrality principles espoused by the Governor in his 2018 Executive Order<sup>12</sup>, and various State Senate and Assembly resolutions.<sup>13</sup>

**Xchange's Wireless Offerings.** Xchange provides prepaid wireless telecommunications services to consumers by using the underlying wireless networks of facilities-based providers,

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<sup>8</sup> Case No. 02-C-0449, issued June 13, 2002

<sup>9</sup> Docket No. TE02050299, issued February 20, 2003

<sup>10</sup> Docket No. TE-10623, issued January 4, 2012

<sup>11</sup> Case No. 09-C-0295, issued May 19, 2009

<sup>12</sup> Executive Order No. 9 (2018), *An Order Mandating All Contracting Units or Officials of Any State Entity to Require that all Future State Contracts for Internet, Data, and Telecommunications be Awarded only to Companies that Adhere to "Net Neutrality" Principles*

<sup>13</sup> 2018 New Jersey S. R. No. 25; 2018 New Jersey A. R. 131

primarily T-Mobile USA, Inc. (“T- Mobile”), and Verizon Wireless (“Verizon”), (collectively, “Underlying Carriers”) on a wholesale basis to offer nationwide service. Xchange is currently designated and operating as a wireless ETC in New York State.<sup>14</sup> Xchange obtains from its Underlying Carriers the network infrastructure and wireless transmission facilities to allow the Company to operate as a Mobile Virtual Network Operator (“MVNO”), similar to TracFone Wireless, Inc. (“TracFone”), and Virgin Mobile USA, L.P. (“Virgin Mobile”), each of which has been granted ETC status in New Jersey.

Xchange’s wireless services are affordable, easy to use, and attractive to low- income and lower-volume consumers, providing them with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family and for contacting prospective employers. Xchange offers consumers simple and affordable calling plans, easy-to-use handsets and high-quality customer service. Given its pricing and marketing strategy and the demographics of its customers in other states, Xchange anticipates that many of its customers will be from low-income backgrounds who have not previously enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. Xchange does not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service.

By providing affordable wireless and wireline plans and quality customer service to consumers who are otherwise unable to afford them, or who were previously ignored by traditional carriers, Xchange will expand the availability of wireless services to many more consumers, which is the principal reason for which Congress created the universal service program.

**B. Proposed Lifeline Offering**

Xchange has the ability to provide all services supported by the universal service program,

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<sup>14</sup> Case No. 20-C-0372, issued Sept. 17, 2020

as detailed in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)) throughout New Jersey. The Company's Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other Xchange customers.

Xchange commits that its Lifeline-supported wireless voice services will meet or exceed the minimum service standards set forth in 47 C.F.R. § 54.408 (currently 1,000 minutes). Xchange's Lifeline-supported wireless broadband services will also meet the minimum service standards set forth in 47 C.F.R. § 54.408 for mobile broadband internet access services, including for service speed and data usage allowance, as such standards are updated going forward. The FCC issued an order increasing the minimum service standard for mobile broadband data effective December 1, 2019 from 2 gigabytes ("GB") to 3 GB.<sup>15</sup> To the extent Xchange provides devices for use with Lifeline-supported broadband service, such devices will meet the equipment requirements set forth in 47 C.F.R. § 54.408(f), and Xchange will not impose an additional or separate tethering charge for mobile data usage below the minimum standard. Xchange will meet the minimum standards for wireline broadband services set forth in 47 C.F.R. § 54.408 (b) & (c), which currently are 20Mbps download by 3 Mbps upload.<sup>16</sup>

Attached hereto as Exhibit 2 is a summary table of the Company's proposed Lifeline service offering, showing that wireless Lifeline customers will receive 1,000 voice minutes, unlimited text messages, and 3 GB of data per month at a net cost of approximately \$5.00<sup>17</sup> after application of Lifeline support.. Customers will also be able to purchase additional minutes or data as needed. In addition to discounted wireless services, Lifeline customers will receive a handset or SIM card, as well as access to voice mail, caller I.D., call forwarding, 3-way calling, and call waiting features at

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<sup>15</sup> See *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197 and 10-90, Order, FCC 19-116 (rel. Nov. 19, 2019).

<sup>16</sup> As set forth in 47 C.F.R. § 54.308(a)(1)(i).

<sup>17</sup> Xchange has not decided on final pricing



no additional charge. Customers may use their minutes to place domestic long-distance calls at no additional charge and calls to the Company's customer service are free with no deduction of available minutes. Calls to 911 emergency services are always free, regardless of service activation or availability of minutes. Wireline Broadband customers will receive 20/3Mbps, without a cap, and the ability to optionally add voice services.

The Company's Lifeline offering will allow feature-rich connectivity for qualifying subscribers at a low cost to the subscriber, without the burden of credit checks or service contracts. Xchange's wireless offerings will be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts; and its landline offerings will be an attractive alternative for consumers that require the use of home-internet services.

### **C. Plan Enrollment**

The FCC has taken steps to further curb abuse in the Lifeline program by establishing the National Lifeline Eligibility Verifier ("National Verifier"), which transfers the responsibility of eligibility determination away from Lifeline providers.<sup>18</sup> Customers interested in obtaining information on the Lifeline program will be directed to a toll-free telephone number and to the Company's website, which will contain information regarding the Company's Lifeline service plans, including a description of the Lifeline program and eligibility criteria. Customers must then apply directly through the National Verifier, which they may do online or by submitting all required documentation to the National Verifier by mail. Customers may download a copy of the application form from the Internet (either from the National Verifier's or Company's website) or request that a copy be mailed to them. The National Verifier has hard launched in New Jersey, and thus the National Verifier is fully responsible for initial and annual eligibility determination in

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<sup>18</sup> See *Lifeline Modernization Order*, section III.C.

New Jersey.<sup>19</sup> Customers in New Jersey can apply to the National Verifier through a service provider like Xchange, or on their own by mail or online. Xchange utilizes the standard Lifeline application/certification forms as required by FCC rules, and thus complies with the disclosure and information collection requirements in 47 C.F.R. § 54.410(d).<sup>20</sup>

#### **D. Prevention of Waste, Fraud and Abuse**

Xchange recognizes the importance of safeguarding the USF and has implemented measures and procedures to prevent duplicate Lifeline benefits being awarded to the same household. Xchange complies with the requirements of the National Lifeline Accountability Database (“NLAD”) and section 54.404 of the FCC’s rules. In New Jersey, the National Verifier queries the NLAD for every enrollment to determine whether a prospective subscriber is currently receiving a Lifeline service from Xchange or any other ETC, and whether anyone else living at the prospective subscriber’s residential address is currently receiving Lifeline service. In addition, Company personnel emphasize the “one Lifeline service per household” restriction in their direct sales contacts with potential customers.

Furthermore, Xchange will rely on the National Verifier to determine initial and ongoing eligibility of New Jersey Lifeline subscribers. Xchange will also comply with the FCC’s *Fifth Report and Order*, which set forth reforms to strengthen the Lifeline program’s enrollment, recertification, and reimbursement processes, once the rule changes set forth therein become effective.<sup>21</sup>

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<sup>19</sup> See <https://www.usac.org/lifeline/eligibility/national-verifier/launches/national-verifier-october-2019-launch/>; see also <https://www.usac.org/lifeline/eligibility/customer-eligibility/state-eligibility-verification-processes/#u>.

<sup>20</sup> *FCC Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program*, WC Docket No. 11-42, Public Notice, “Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program,” DA 18-161 (rel. Feb. 20, 2018). The standard application/certification forms are available on USAC’s website (See USAC, Lifeline Forms, <http://www.usac.org/li/tools/forms/default.aspx>).

<sup>21</sup> *In the Matter of Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 17-287, WC Docket No. 11-42, WC Docket No. 09-197, Fifth Report and Order, Memorandum Opinion and Order and Order on

Consistent with federal regulations, the Company will not seek USF reimbursement for new subscribers until they have personally activated the service, either by initiation and/or actual use of the service, and will de-enroll any subscriber that has not used the Company's Lifeline service as set forth in 47 C.F.R. § 54.407(c)(2). An account will be considered active if the authorized subscriber establishes usage, as "usage" is defined by 47 C.F.R. § 54.407(c)(2), during the specified timeframe, currently a period of thirty (30) days, or during the notice period set forth in 47 C.F.R. § 54.405(e)(3), currently a period of fifteen (15) days. In accordance with 47 C.F.R. § 54.405(e)(3), Xchange will provide the subscriber advanced notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the notice period will result in service termination for non-usage. Customers that have been deactivated may participate in the Company's Lifeline service in the future by reapplying and re-establishing eligibility.

To further protect the integrity of the USF, Xchange has developed its own auditing system to process and validate the Company's subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from the Company will be automatically prevented from receiving a second lifeline subsidy in that same month; (2) Inactive lines receiving subsidy: system compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines; and (3) Subsidies for Deceased subscribers: U S A C Death Master search to ensure that subsidies are not requested for a deceased subscriber. Through the processes described above, Xchange ensures that it does

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Reconsideration, and Further Notice of Proposed Rulemaking, FCC 19-111 (rel. Nov. 14, 2019) (hereinafter, "*Fifth Report and Order*"). The order is effective January 27, 2020, except for section 54.406(b) [*Prohibition of commissions for enrollment representatives*], which is effective February 25, 2020, and section 54.406(a) [*Enrollment representative registration*], which is effective March 26, 2020. Revisions to Sections 54.404(b)(12) [*relating to not enrolling/claiming a subscriber unless they are verified to be alive*] and 54.410(f) [*changes to recertification*] are delayed and the FCC will publish a document announcing the effective date.

not over-request from support funds.

### III. THE BOARD HAS JURISDICTION TO DESIGNATE WIRELESS ETCs

Section 214(e)(2) of the Act provides state public utility commissions with the “primary responsibility” for the designation of ETCs.<sup>22</sup> Although Section 332(c)(3)(A) of the Act prohibits states from regulating the entry of or the rates charged by any provider of commercial mobile service or any private mobile service, this prohibition does not allow states to deny wireless carriers ETC status.<sup>23</sup> Therefore, the Board has the authority to designate Xchange as an ETC. Pursuant to this authority, the Board has historically participated in determining whether to grant ETC status to an applying carrier.<sup>24</sup> Under the Act, a state public utility commission with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of Section 214(e)(1). Xchange recognizes that Section 214(e)(1)(A) of the Act states that ETCs shall offer services, at least in part, over their own facilities and that Section 54.201(i) of the FCC’s Rules (47 C.F.R. § 54.201(i)) prohibits state commissions from designating as an ETC a telecommunications carrier that offers services exclusively through the resale of another carrier’s services. However, the FCC has granted forbearance from enforcement of this facilities requirement to carriers seeking Lifeline- only ETC designation.<sup>25</sup> Section 10(e) of the Act (47 U.S.C. § 160(e)) provides: “[a] State commission may not continue to apply or enforce any provision of this chapter that the [Federal Communications] Commission has determined to forbear from applying under subsection (a) of this section.” As such, the Board is required by Section 10(e) to act in accordance with the FCC’s grant of forbearance, and therefore, may not apply the facilities-

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<sup>22</sup> 47 U.S.C. § 214(e)(2).

<sup>23</sup> See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) (“USF Order”).

<sup>24</sup> See e.g., *In the Matter of a Petition by TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of New Jersey*, Docket No. TO09010092, Order (April 27, 2009) (“TracFone ETC Order”); See also *In the Matter of Virgin Mobile USA, LP Petition for Limited Designation as an Eligible Telecommunications Carrier*, Docket No. TO10020093, Order (August 4, 2010) (“Virgin Mobile ETC Order”).

<sup>25</sup> See *Lifeline and Link Up Reform Order* at ¶ 368.

based requirement to Xchange. Therefore, the Board has the authority under Section 214(e)(2) of the Act to grant Xchange's request for designation as an ETC throughout the State of New Jersey.

**A. The ETC Designation Request Is Consistent with Board Precedent**

Xchange's request for ETC designation to participate in the Lifeline program is consistent with the Board's designation of TracFone and Virgin Mobile as ETCs.<sup>26</sup> In its decisions, the Board determined that the designation of a wireless carrier as an ETC would serve the public interest. Xchange requests that the Board expeditiously process its ETC Petition so that it can quickly commence providing qualifying low-income New Jersey customers with affordable USF-supported wireless and wireline services during these challenging economic times for all state residents. Designation of Xchange as an ETC would further competition for wireless and wireline Lifeline service and would offer eligible consumers an additional choice of providers for accessing telecommunications services, representing a significant step towards ensuring that all low-income consumers share in the many benefits associated with access to wireless and wireline services. Lastly, Xchange would point out that the BPU has only approved three landline Lifeline providers. There is a very large hole in terms of competitive alternatives for landline lifeline services in New Jersey.

**IV. XCHANGE SATISFIES THE REQUIREMENTS FOR ETC DESIGNATION**

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support." Section 214(e)(2) of the Act authorizes state commissions, such as the Board, to designate ETC status for federal universal service purposes and authorizes the Board to designate ETCs for both wireline and wireless services.<sup>27</sup> Section 214(e)(1) of the Act and Section 54.201(d)

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<sup>26</sup> See *TracFone ETC Order*; see also *Virgin Mobile ETC Order*

<sup>27</sup> *USF Order*, at 8858-59, ¶ 145.

of the FCC's rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either by using their own facilities or a combination of their own facilities and the resale of another carrier's services, except where the FCC has forbore from the "own facilities" requirement. Applicants also must commit to advertise the availability and rates of such services<sup>28</sup> and provide additional information set forth in 47 C.F.R. § 54.202(a). As detailed below, Xchange satisfies each of the above-listed requirements.

**A. Xchange Will Provide Service Consistent with the FCC's Grant of Forbearance from Section 214's Facilities Requirements**

Although Section 214 requires ETCs to provide services using their facilities, at least in part, the FCC has forbore from that requirement with respect to carriers such as Xchange. In the *Lifeline and Link Up Reform Order*, the FCC granted forbearance from the "own-facilities" requirement contained in Section 214(e)(1)(A) for carriers that are, or seek to become, Lifeline-only ETCs, subject to the following conditions:<sup>29</sup>

(1) the carrier must comply with certain 911 requirements [(a) providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes; (b) providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services; and (c) complying with conditions (a) and (b) starting on the effective date of this Order]; and

(2) the carrier must file, and the Bureau must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary."

In accordance with the *Lifeline and Link Up Reform Order*, Xchange filed its Compliance Plan.<sup>30</sup> A copy of its FCC-Approved Compliance Plan is attached hereto as Exhibit 3. Xchange commits to providing Lifeline service in New Jersey in accordance with its Compliance Plan and in compliance with applicable state and federal regulations, to the extent amendments thereto may

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<sup>28</sup> See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

<sup>29</sup> See *Lifeline and Link Up Reform Order* at ¶¶ 368, 373

<sup>30</sup> See <https://ecfsapi.fcc.gov/file/107162103118316/Lifeline%20Wireless%20Compliance%20Plan.pdf>

supersede commitments made in the Compliance Plan.

## **B. Xchange Is a Common Carrier**

Xchange is Competitive Local Exchange Carrier (“CLEC”) and is thus a common carrier. With regards to wireless services, wireless resellers such as Xchange have been deemed to be common carriers and CMRS providers.<sup>31</sup>

## **C. Xchange Will Provide All Supported Services**

Through its Underlying Carriers, Xchange is able to provide all of the supported services required by Section 54.101(a) of the FCC’s Rules (47 C.F.R. § 54.101(a)) as follows:

### **1. Voice Telephony Services**

As set forth in 47 C.F.R. § 54.101(a)(1), eligible Voice Telephony Services must provide the following:

Voice Grade Access to the Public Switched Telephone Network. For wireless services, Xchange provides voice grade access to the public switched telephone network (“PSTN”) through the purchase of wholesale CMRS services from its facilities-based Underlying Carriers. For wireline services, Xchange provides voice grade access to the PSTN through either (a) the purchase of wholesale services from the ILEC; (b) provision of PSTN services via UNEL loops, to its carrier-grade network and switch facilities, that are interconnected with the PSTN and (c), fixed wireless services that provide access to the PSTN over point to point and point to multi point wireless connections.

Local Usage At No Additional Charge. Xchange offers rate plans that provide its customers

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<sup>31</sup> *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory “mobile services” category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) (“mobile services” providers are common carriers); *see also PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, (Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) (“We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services *and resellers of such services.*”) (emphasis added).

with minutes of use for local service at no additional charge.

Access to Emergency Services. Xchange provides 911 and E911 access for all of its customers to the extent the local government in its service area has implemented 911 or E911 systems. As noted, calls to 911 emergency services will always be free and will be available regardless of service activation status or availability of minutes. Xchange also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets.

Toll Limitation. In its *Lifeline and Link Up Reform Order*, the FCC provided that toll limitation would no longer be deemed a supported service.<sup>32</sup> "ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls."<sup>33</sup> Nonetheless, Xchange's offerings allow Lifeline subscribers to control their usage, by offering long distance or toll limitations at no charge.

## **2. Broadband Internet Access Services**

Broadband Internet access service ("BIAS") is a supported service as of December 2, 2016. The FCC has stated that BIAS consists of the ability for a user to receive "the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service."<sup>34</sup> Xchange provides BIAS to wireless low-income consumers via resale of its Underlying Carriers' mobile services, and to wireline low-income customers via direct connections between Xchange's network and the Internet. Xchange is an Internet Service Provider ("ISP").

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<sup>32</sup> See *Lifeline and Link Up Reform Order* at ¶ 367.

<sup>33</sup> See *id.* at ¶ 49.

<sup>34</sup> See 47 C.F.R. § 8.2(a).



**D. Xchange Will Advertise the Availability of Supported Services**

Xchange will advertise the availability and rates for the services described above using media of general distribution as required by 47 C.F.R. § 54.201(d)(2) of the FCC's regulations. Xchange's advertising will comply with the requirements set forth in the *Lifeline and Link Up Reform Order*, as outlined in the Xchange's Compliance Plan.<sup>35</sup>

The Company will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline service, using mediums for outreach such as print advertisements, direct marketing, social media and the Internet Xchange will engage in advertising campaigns specifically targeted to reach those likely to qualify for Lifeline service, promoting the availability of cost-effective wireless services to this neglected consumer segment. Xchange may also promote the availability of its Lifeline offering by distributing brochures at various state and local social service agencies, and may partner with nonprofit assistance organizations in order to inform customers of the availability of its Lifeline service. In addition, Xchange intends to utilize its network of retail partners (once established) to help promote the availability of its Lifeline plans, especially retail outlets that are frequented by low-income consumers. Xchange will provide retail vendors with signage to be displayed where Company products are sold, and with printed materials describing the Company's Lifeline program.<sup>36</sup>

Xchange will explain in clear, easily understood language the following disclosures in all marketing materials related to the supported service: (a) that the service is a Lifeline-supported service; (b) that only eligible consumers may enroll in the program; (c) what documentation is necessary for enrollment; and (d) that the benefit is limited to one per household consisting of either wireline or wireless service and is non-transferrable. Xchange will also explain that Lifeline is a

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<sup>35</sup> See Exhibit 3. See also *Lifeline and Link Up Reform Order* at Section VII.F.

<sup>36</sup> See attached Exhibit 5 for a sample advertisement from another state; advertisements will be updated for use in New Jersey upon ETC designation

government benefit program and willfully making false statements to obtain Lifeline benefits may be punished by fine or imprisonment or result in being barred from the program. Additionally, Xchange will disclose the company name under which it does business and the details of its Lifeline service offerings in any Lifeline-related marketing and advertising.

**E. Xchange Requests Designation Throughout Its Service Area**

Xchange is not a rural telephone company as defined in Section 153(37) of the Act (47U.S.C. § 153(37)). Accordingly, Xchange is required to describe the geographic area(s) within which it requests designation as an ETC. Xchange requests designation as an ETC for the entire state of New Jersey, subject to the existence of its Underlying Carriers' facilities and corresponding coverage, and areas where Xchange provides fixed wireless directly, UNEL or resold services. The current coverage map, along with a list of current zip codes within coverage, is attached hereto as Exhibit 4. Xchange understands that its service area overlaps with rural carriers in New Jersey, but maintains that the public interest factors described below justify its designation in these carriers' service areas, especially because it seeks ETC designation solely to utilize USF funding to provide Lifeline service to qualified low-income consumers.

Therefore, designation of Xchange as an ETC will cause no growth in the high-cost portions of the USF and will not erode high-cost support from any rural telephone company. In fact, the FCC has determined that “[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”<sup>37</sup> While the federal rules (47 U.S.C. §§ 160, 214(e)(5) and 47 C.F.R. § 54.207(b)) require that the service area of an ETC conform to the service area of any rural telephone company serving the same area (the “service area conformance” requirement), the FCC’s *Lifeline and Link*

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<sup>37</sup> See *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming, Memorandum Opinion and Order*, 16 FCC Rcd 48, 55 (2000).

*Up Reform Memorandum Opinion and Order* (FCC 13-44 released April 15, 2013) authorized forbearance from the service area conformance requirements with respect to carriers seeking to provide Lifeline-only service.<sup>38</sup> In light of this forbearance, the Board has the authority to designate ETCs such as Xchange in rural areas without concern for the service area conformance requirement.<sup>39</sup>

**F. Service Commitment Throughout the Proposed Designated Service Area**

Xchange will provide wireless service in New Jersey by reselling service which it obtains from its Underlying Carriers. These provider's networks are operational and largely built out. Thus, Xchange will be able to commence offering its Lifeline service to all locations served by its Underlying Carriers very soon after receiving approval from the Board. Xchange will provide wireline service in New Jersey by either providing fixed wireless, UNEL or resold services from the ILEC. Xchange has both a wholesale service agreement and Interconnect Agreement with Verizon NJ, LLC, the ILEC, and thus will be able to commence offering its wireline Lifeline service to all locations served by Verizon NJ very soon after receiving approval from the Board. In accordance with 47 C.F.R. § 54.202(a)(1)(i), and by the attached certification, Xchange commits to comply with the service requirements applicable to the support that it receives. Pursuant to 47 C.F.R. § 54.202(a)(1)(ii), a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC.<sup>40</sup>

**G. Ability to Remain Functional in Emergency Situations**

In accordance with 47 CFR §54.202(a)(2), Xchange has the ability to remain functional in

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<sup>38</sup> See *In the Matter of Telecommunications Carriers Eligible for Support, Lifeline and Link Up Reform*, WC Docket No. 09-197, WC Docket No. 11-42, Memorandum Opinion and Order, FCC 13-44 (rel. April 15, 2013).

<sup>39</sup> See 47 C.F.R. § 54.207(c).

<sup>40</sup> See also *Lifeline and Link Up Reform Order* at ¶ 386.

emergency situations. As discussed, Xchange will utilize the extensive and well-established Verizon, and/or T-Mobile wireless networks and facilities to provide its wireless Lifeline services, and use Verizon NJ's network, in combination with Xchange's existing UNEL and fixed wireless network to provide wireline services. The Company understands that the Underlying Carriers' networks have access to a reasonable amount of back-up power to ensure functionality without an external power source, are able to reroute traffic around damaged facilities, and are capable of managing traffic spikes resulting from emergency situations. Indeed, these Underlying Carriers have repeatedly certified to the FCC that their networks function in emergency situations.<sup>41</sup> The Underlying Carriers provide the same functionality to Xchange and its customers as these carriers provide to themselves and their own customers.

With regard to Xchange's fixed wireless network and UNEL backbone, Xchange constructs such network utilizing or exceeding industry standards with regard to reliability. Its network has access to 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.

#### **H. Commitment to Consumer Protection and Service Quality**

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards<sup>42</sup> and wireless applicants may also satisfy this requirement by complying with the Cellular Telecommunications and Internet Association's ("CTIA") Consumer Code for Wireless Service. Xchange hereby commits to complying with the CTIA Consumer Code for Wireless Service. Xchange commits to satisfactorily resolve complaints

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<sup>41</sup> See, e.g., *In the Matter of Telecommunications Carriers Eligible for Universal Service Support, Petition of T-Mobile USA, Inc. for Designation as a Low-Income Eligible Telecommunications Carrier, et al.*, WC Docket No. 09-197, at 20 (released Aug. 16, 2012).

<sup>42</sup> See 47 C.F.R. § 54.202(a)(3).

filed with the Board's Telecommunications Division and will provide a Company point of contact through which all Lifeline complaints may be transmitted.

**I. Xchange is Financially and Technically Capable**

In accordance with 47 C.F.R. § 54.202(a)(4), Xchange is financially and technically capable of providing Lifeline-supported services. The Company has been offering telecommunications service since 2002 and began providing non-Lifeline services in 2002 and Lifeline-supported services in 2009. Xchange, already successfully provides wireless services nationwide, and wireline services in three states; including Lifeline services in New York. Xchange has not been subject to enforcement actions and has not been subject to ETC revocation proceedings. The Company has operated as a telecommunications carrier for eighteen years and has never had to file for bankruptcy protection. Xchange does not, and does not intend to, offer exclusively Lifeline-supported services—and is therefore not exclusively dependent on USAC for its revenue. The result of Xchange's efforts is that it is fully capable of honoring all its service obligations to customers and regulatory obligations to state and federal regulators. Furthermore, the senior management of Xchange has great depth in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to the Company.<sup>43</sup> Xchange will be providing resold wireless service, and therefore will also rely upon the managerial and technical expertise of its Underlying Carriers.

**J. Xchange Will Comply with Certification and Verification Requirements**

As mentioned above, Xchange will rely on the National Verifier for initial and annual verification of Lifeline eligibility in accordance with Section 54.410 of the FCC's Rules.

**K. Xchange Will Comply With Reporting Requirements**

Xchange will provide the Board a copy of its annual certifications and Lifeline

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<sup>43</sup> See Exhibit 6 for key management bios

recertification results pursuant to 47 C.F.R. § 54.416 (i.e. FCC Form 555), as well as a copy of its annual report filed pursuant to 47 C.F.R. § 54.422 (i.e. FCC Form 481), and will comply with applicable Board reporting requirements for Lifeline ETCs.

**L. Xchange Will Comply With Regulations Imposed By The Board**

By this Petition, Xchange hereby asserts its willingness and ability to comply with the rules and regulations that the Board may lawfully impose upon the Company's provision of service contemplated by this Petition. Upon Board request, Xchange is prepared to answer questions or present additional testimony or other evidence about its services within the state. Xchange commits that 100% of federal universal service funds will flow through directly to Lifeline customers.

**V. DESIGNATION OF XCHANGE AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST**

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.<sup>44</sup> Designation of Xchange as an ETC in New Jersey will further the public interest by providing New Jersey consumers, especially low-income consumers, with low prices and high quality services. Many low-income customers in New Jersey have yet to reap the full benefits of the intensely competitive wireless market. Whether because of financial constraints, poor credit history or intermittent employment, these consumers often lack the countless choices available to most consumers.

The instant request for ETC designation must be examined in light of the Act's goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—

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<sup>44</sup> *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

receive affordable and comparable telecommunications services. Given this context, designating Xchange as an ETC would significantly benefit low-income consumers eligible for Lifeline service in the State of New Jersey—the intended beneficiaries of universal service.

**A. Advantages of Xchange’s Service Offering**

The public interest benefits of Xchange’s wireless service include larger local calling areas (as compared to traditional wireline carriers); the convenience, portability and security afforded by mobile telephone service; the opportunity for customers to control cost by receiving a preset amount of monthly airtime at no charge; the opportunity for customers to receive both the minimum service standards for voice *and* broadband usage within the same rate plan; the ability of users to use the supported service to send and receive unlimited “SMS” or text messages at no additional cost; the ability for customers to purchase additional usage at flexible and affordable amounts in the event that included usage has been exhausted (and the courtesy of free low-balance alerts); the option to purchase additional international calling at affordable rates; the opportunity for customers to receive service without going through a credit check or deposit requirement, or committing to a long-term service contract; and access to 911 and E911 service in accordance with current FCC requirements.

The public interest benefits of Xchange’s wireline service include the ability to access high-quality internet services with no data cap; access to the Internet without prioritization of traffic, through a carrier that has always subscribed to Net Neutrality principles; the ability to add optional voice services, internet filtering services, and access to 911 and E911 service as part of a bundled voice service, in accordance with current FCC requirements.

Low-income individuals can greatly benefit from the advantages offered by the Company’s Lifeline service, which provides access to supported service to assist in emergency situations, facilitate job search efforts, and to maintain contact with family members. It is a commonly

accepted fact that in today’s market all consumers, including qualified Lifeline customers, view the portability and convenience of wireless service not as a luxury, but as a necessity. Mobile service allows children to reach their parents, wherever they may be, allows a person seeking employment the ability to be contacted by potential employers, and provides end users with the ability to contact emergency service providers, regardless of location. Xchange’s wireless service is likely to be an especially attractive option for low-income consumers because it alleviates customer concerns regarding hidden costs, varying monthly charges and long-term contract issues. Providing Xchange with the authority necessary to offer discounted Lifeline service to those without—or most in danger of losing—wireless service undoubtedly promotes the public interest.

Also, Low-income individuals can benefit from the ability to choose a lifeline voice and broadband supplier. It is also accepted that home-internet services, especially during the current Covid-19 crisis, is crucial for consumers to obtain benefits, job searching, home-schooling, and telemedicine. Xchange’s broadband services are likely to be especially attractive since Xchange offers a quality Internet experience without risk of net prioritization, that other carriers who do not subscribe to Net Neutrality principles engage in.

Finally, grant of Xchange’s Petition will serve the public interest in increasing the number of ETCs in New Jersey. By granting ETC status to Xchange, the Board will enable Xchange to increase the number of New Jersey residents receiving Lifeline support, thereby increasing the amount of USF money flowing into New Jersey. In sum, ETC designation in New Jersey would enable Xchange to provide all of the public benefits cited by the FCC in its analysis in the *Virgin Mobile Order*; namely, Xchange would provide “increased consumer choice, high-quality service offerings, and mobility,”<sup>45</sup> as well as the safety and security of effective 911 and E911 services.<sup>46</sup>

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<sup>45</sup> See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

<sup>46</sup> See *Id.* at 3391 ¶ 23.



## **B. The Benefits of Competitive Choice**

The FCC has acknowledged the benefits to consumers of being able to choose from among a variety of telecommunications service providers, for more than three decades.<sup>47</sup> Designation of Xchange as an ETC will promote competition and innovation, spurring other carriers to target low-income consumers with service offerings tailored to their needs, ultimately resulting in improved services to consumers. Designation of Xchange as an ETC will help ensure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.<sup>48</sup> Introducing Xchange into the market as an additional wireless ETC provider will afford low-income New Jersey residents a wider choice of providers and available services while creating a competitive marketplace as ETCs compete for a finite number of Lifeline-eligible customers. Increasing the competitive marketplace of providers has the potential to effectively increase the penetration rate and reduce the number of individuals not connected to the PSTN.

## **C. Impact on the Universal Service Fund**

Xchange’s request for designation as an ETC solely for purposes of participating in the Lifeline program would not unduly burden the USF or otherwise reduce the amount of funding available to other ETCs. With Lifeline, ETCs only receive support for customers they obtain. The amount of support available to an eligible subscriber is exactly the same whether the support is given through a company such as Xchange or the Incumbent LEC operating in the same service area. The number of persons eligible for Lifeline support is the same the Company’s designation as an ETC; Xchange will only increase the amount of USF Lifeline funding in situations where it obtains Lifeline customers not already enrolled in another ETC’s Lifeline program. By implementing the safeguards set forth in the *Lifeline and Link Up Reform Order* and utilizing the

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<sup>47</sup> See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

<sup>48</sup> See 47 U.S.C. § 254(b)(1).

NLAD and National Verifier, the likelihood that Xchange's customers are not eligible or are receiving duplicative support either individually or within their household is greatly minimized. Xchange's ability to increase the Lifeline participation rate of qualified low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service, and thus any incremental increases in Lifeline expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers.

## **VI. CONCLUSION**

Based on the foregoing, designation of Xchange as an ETC in the State of New Jersey accords with the requirements of Section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, Xchange respectfully requests that the Board promptly designate Xchange as an ETC in the State of New Jersey.

Respectfully submitted,

*s/ Mordy Gross*

Mordy Gross, Esq.  
General Counsel  
Xchange Telecom LLC  
3611 14<sup>th</sup> Ave., Suite 550  
Brooklyn, NY 11218  
(646) 722-7285  
[mgross@xchangetele.com](mailto:mgross@xchangetele.com)

*Attorney for Xchange Telecom LLC*

September 24, 2020

**EXHIBIT 1**

**Certification**

**STATE OF NEW YORK**

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**COUNTY OF KINGS**

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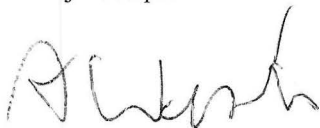
) ss

Alfred West, hereby certifies as follows:

1. I am the President of XCHANGE TELECOM CORP., the Petitioner in the subject proceeding.

2. I am familiar with the nature and contents of the Petition to which this Verification is annexed.

3. The allegations of the Petition are true and accurate to the best of my knowledge, information and belief. I am aware that if any of the foregoing statements made by me is willfully false, I may be subject to punishment.



Date: September 24, 2020

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Alfred West  
CEO  
Xchange Telecom LLC  
361 14<sup>th</sup> Ave., Suite 550, Brooklyn, NY 11218

## EXHIBIT 2

### Xchange Telecom Communications, LLC Lifeline Offering

Terms & Conditions maintained at [www.Xchangetele.com](http://www.Xchangetele.com)

#### Xchange Wireless Plans:

Xchange Mobile Telerific – Regular Price – 25.24; Lifeline Price – 15.99

Features	Cost
Unlimited USA Calling Voice/Text	Included
Data	Up to 3Gb per month
Call Waiting	Included
3 Way Calling	Included
Caller ID	Included
VoiceMail	Included
911	Free
611 (Customer Service)	Free
Directory Assistance	\$1.50

Activation Fee: \$25.00

**Additional Minutes:** For all service plans the customer can purchase additional voice, data, MMS, text minutes for \$0.05 per minute with a minimum purchase of \$5.00. For example, 100 additional minutes will cost \$5.00. The customer will have the ability to purchase 100 minutes (\$5.00); 200 minutes (\$10.00); 300 minutes (\$15.00) and 500 minutes (\$25.00). For Unlimited service plans the customer will not need additional voice or text but will need to purchase additional minutes for data and MMS. MMS is priced at \$0.15 per minute and Data is \$0.05 per MB. **Additional airtime available for purchase**

**Text Messages:** The service plans include text messaging; text messaging rates are assessed at 1 minute per text message sent and 1 minute per text message received.

**Other:** Plans do not permit rollover minutes or data. Top Ups are available for a 30-day period if the customer renews the service at the normal plan rate. Plans do not allow roaming. The \$25.00 Activation Fee includes selection of a basic handset which is activated and provided ready for use. Customers can call internationally but will be assessed the international rates. International text rates are \$0.20 per minute for messages sent or received. Special Promotional offer: 10 MB data FREE for 3 months with the selection of a data capable phone.

#### Xchange Landline Plans:

Xchange will offer eligible low income households Lifeline Services, the terms and conditions of which are described in its proposed tariff revision, which is attached hereto. The Lifeline discount can be applied to any eligible service package, such as described below.

NationTalk DoublePlay– Unlimited USA and Canada & Internet – as low as \$75.99, tax inclusive (lifeline price \$66.74)

Unlimited Internet (20/3Mbps) – \$59.99 (Lifeline price \$50.74)

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**SECTION 16- LIFELINE PROGRAM****16.1 General**

- (A) The Lifeline program is designed to increase the availability of telecommunications services to low income subscribers by providing a credit to monthly recurring local service for qualifying residential subscribers. Basic terms and conditions are in compliance with the FCC's Order on Universal Service in CC Docket No. 97-157, which adopts the Federal-State Joint Board's recommendation in CC Docket No. 96-45, which complies with the Telecommunications Act of 1996.
- (B) Lifeline is supported by the federal universal service support mechanism.
- (C) Federal baseline support of nine dollars and twenty-five cents (\$9.25) is available for each Lifeline service and is passed through to the subscriber. The amount of credit will not exceed the charge for local service, which includes the line, the Subscriber Line Charge and local usage. The amount of credit will be used to reduce the cost of any generally available residential service plan or package offered by the Company that is eligible for Lifeline.

**16.2 Regulations****(A) General**

- (1) One low income credit is available per household and is applicable to the primary residential connection only. The named subscriber must be a current recipient of any of the low income assistance programs identified below.
- (2) A Lifeline customer may subscribe to any local service offering available to other residential customers. Since the Lifeline credit is applicable to the primary residential connection only, it may not be applied to multiple lines in a package for local service.
- (3) Toll blocking, if elected, will be provided at no charge to the Lifeline subscriber.
- (4) No deposit will be required of a Lifeline customer who subscribes to toll blocking. If a Lifeline customer removes toll blocking prior to establishing an acceptable credit history, a deposit may be required. When applicable, advance payments will not exceed the connection and local service charges for one month.

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Issued Date: \_\_\_\_\_, 2020

Effective Date: \_\_\_\_\_, 2020

Issued By:

Mordy Gross, General Counsel  
3611 14<sup>th</sup> Ave., Suite 215  
Brooklyn, NY 11218

## SECTION 16- LIFELINE PROGRAM

## 16.2 Regulations (cont'd)

## (A) General (cont'd)

- (5) The Federal Universal Service Charge will not be billed to Lifeline customers.
- (6) Lifeline subscriber's local service will not be disconnected for non-payment of regulated toll charges. Local service may be denied for non-payment of local calls. Access to toll service may be denied for non-payment of regulated tolls.
- (7) At no time shall a customer's Lifeline rate go below zero.
- (8) De-enrollment: If the Company has a reasonable basis to believe that a Lifeline subscriber no longer meets the criteria to be considered a qualifying low-income consumer, the Company shall notify the subscriber of impending termination of their Lifeline Service. Such notice shall be sent under separate cover from any monthly invoice. If the Lifeline subscriber does not demonstrate within 30 days their continued eligibility will no longer receive the Lifeline low income credit.
- (9) De-enrollment for duplicative support: If the Company receives a notification from USAC that the Lifeline Subscriber is receiving Lifeline Service from another eligible telecommunications carrier, or that more than one member of a subscriber's household is receiving Lifeline service and therefore that the subscriber should be de-enrolled from participation in the Company's Lifeline program, the Company shall de-enroll the subscriber from participation in the Company's Lifeline program within five business days
- (10) De-enrollment for non-usage: If a Lifeline subscriber fails to use, as "usage" is defined in 47 C.F.R. § 54.407(c)(2), for 60 consecutive days their Lifeline service, and such Lifeline service does not require the Company to assess or collect a monthly fee from the subscriber, the Company will provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage. If the subscriber uses the Lifeline service within 30 days of the carrier providing such notice, the Company will not terminate the subscriber's Lifeline service.

Issued Date: \_\_\_\_\_, 2020

Effective Date: \_\_\_\_\_, 2020

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Mordy Gross, General Counsel  
3611 14<sup>th</sup> Ave., Suite 215  
Brooklyn, NY 11218

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**SECTION 16- LIFELINE PROGRAM****16.2 Regulations (cont'd)****(A) General (cont'd)**

- (11) De-enrollment for failure to re-certify: The Company will de-enroll a Lifeline subscriber who does not respond to the Company's attempts to obtain re-certification of the subscriber's continued eligibility as required by 47 C.F.R. § 54.410(f); who fails to provide the annual one-per-household re-certifications as required by 47 C.F.R. § 54.410(f); or who relies on a temporary address and fails to respond to the carrier's address re-certification attempts pursuant to 47 C.F.R. § 54.410(g). Prior to de-enrolling a subscriber under this paragraph, the Company will notify the subscriber in writing separate from the subscriber's monthly bill, using clear, easily understood language, that failure to respond to the re-certification request within 30 days of the date of the request will trigger de-enrollment. If a subscriber does not respond to the Company's notice of impending de-enrollment, the Company will de-enroll the subscriber from Lifeline within five business days after the expiration of the subscriber's time to respond to the re-certification efforts.

**16.3 Eligibility**

- (A) Customers are eligible if they participate in at least one of the following programs: Medicaid; Food Stamps; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program (HEAP); National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families. Additionally, a customer with total gross annual income that does not exceed 135% of the federal poverty income guidelines may apply directly to the New Jersey Board of Public Utilities for Lifeline eligibility certification.
- (B) All applications for service are subject to verification with the state agency responsible for administration of the qualifying program.

**16.4 Certification**

- (A) Proof of eligibility in any of the qualifying low income assistance programs should be provided to the Company at the time of application for services; or eligible Lifeline subscribers may enroll in the Lifeline program by signing a document certifying under penalty of perjury that the customer participates in one of the New Jersey Lifeline eligible programs and identifying the qualifying program. The Lifeline credit will not be established until the Company has received such signed document. If the customer requests installation prior to the Company's receipt of such signed document, the requested service will be provided without the Lifeline credit. When eligibility documentation is provided subsequent to installation, the Lifeline credit will be provided on a going forward basis.

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Issued Date: \_\_\_\_\_, 2020

Effective Date: \_\_\_\_\_, 2020

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Mordy Gross, General Counsel  
3611 14<sup>th</sup> Ave., Suite 215  
Brooklyn, NY 11218

## SECTION 16- LIFELINE PROGRAM

## 16.4 Certification (cont'd)

(B) The Company reserves the right to periodically audit its records, working in conjunction with the appropriate state agencies, for the purpose of determining continuing eligibility. Information obtained during such audit will be treated as confidential information to the extent required under State and Federal laws. The use or disclosure of information concerning enrollees will be limited to purposes directly connected with the administration of the Lifeline plan. The Company will conduct such audits as often as required under Federal and State Law.

(C) When a customer is determined to be ineligible as a result of an audit, the Company will contact the customer. If the customer cannot provide eligibility documentation within 60 calendar days, the Lifeline credit will be discontinued.

16.5 General

(A) Lifeline is provided as a monthly credit on the eligible residential subscriber's access line bill for local service.

(B) Service Charges are applicable for installing or changing Lifeline service.

(C) The Service Change Charge is not applicable when existing service is converted intact to Lifeline.

(D) The total Lifeline credit consists of one federal credit of \$9.25 per Lifeline Service.

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Issued Date: \_\_\_\_\_, 2020

Effective Date: \_\_\_\_\_, 2020

Issued By:

Mordy Gross, General Counsel  
3611 14<sup>th</sup> Ave., Suite 215  
Brooklyn, NY 11218



**EXHIBIT 3**

**FCC Compliance Plan**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of ) Federal-State Joint Board on ) Universal Service ) Lifeline and Link Up Reform Modernization) ) )	) ) WC Docket No. 09-197 ) ) ) WC Docket No. 11-42 ) ) ) ) )
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**COMPLIANCE PLAN OF XCHANGE TELECOM, LLC.**

Xchange Telecom, LLC ("Xchange"), by its attorneys, respectfully submits this Compliance Plan ("Plan") for the purposes of seeking federal Lifeline support for wireless service under the Universal Service Fund's Low-Income Program.

In the *Lifeline Reform Order*,<sup>49</sup> the Commission adopted rules and procedures through which it instituted "blanket forbearance" from the applications of the facilities requirement to all telecommunications carriers seeking a limited ETC designation to provide wireless Lifeline services. In order to qualify for this blanket forbearance, the Commission requires carriers to comply with certain 911 requirements and file and receive approval of a compliance plan providing specific information about its service offerings and procedures to safeguard against waste, fraud and abuse.

Therefore, Xchange respectfully submits this Plan in accordance with the Lifeline Reform Order and instructions set forth in the Wireline Competition Bureau *Public Notice* issued on February 29, 2012.<sup>50</sup> Xchange seeks approval of this compliance plan only for the provision of

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<sup>49</sup> *In the Matter of Lifeline and Link Up Reform and Modernization Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-12, 172 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*").

<sup>50</sup> Public Notice, Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order, DA 12-314, (Rel. Feb.29.2012).

Lifeline support to provide wireless services nationwide, as the company offers wireline service as a facilities-based carrier under the approval of state commissions. This Plan sets forth Xchange's service offerings and the procedures and measures it will use to safeguard against waste, fraud and abuse. In support of this request, Xchange provides the following information:

**(1) Information about the carrier and the Lifeline plans it intends to offer:**

**(a) names and identifiers used by the carrier, its holding company, operating company and all affiliates;**

Xchange is a Delaware Limited Liability Company, with offices located at 3611 14<sup>th</sup> Ave., Suite 550, Brooklyn, NY 11218. The company began operations as a competitive local exchange carrier ("CLEC") providing traditional wireline service in New York in 2002. Xchange is authorized as a CLEC in two additional and provides service in New York, New Jersey, and Maryland. Xchange was authorized as an ETC in New York in 2009, and Xchange is also a provider of high-speed Internet services. Xchange also receives support from state programs in New York. Less than 35% of Xchange's customers receive a subsidy from a low-income program. The company is planning to launch wireless service on a non-Lifeline basis, primarily in New York, through an MVNO arrangement with T-Mobile and/or Verizon. As the company would like to expand this offering to Lifeline customers, Xchange seeks approval of a compliance plan to offer Lifeline service using this resold service.

**(b) detailed information demonstrating the carrier is financially and technically capable of providing the supported Lifeline services in compliance with the Commission's rules;**

As a long-time provider of wireline services, particularly in New York, Xchange has a proven record of technical and financial qualifications. The company provides facilities-based wireline service in numerous states and has sophisticated back-office, operational and support systems, which allows it to operate at lower costs and pass those savings on to its subscribers. As a carrier who has provided service for nearly 18 years, Xchange possesses the financial viability, as well as the expertise to continue to provide affordable and quality service to customers and has the proven experience to

maintain its compliance with all applicable federal and state regulatory guidelines. Xchange derives most of its revenue from the telecommunications services it provides to its customers. Xchange does not and will not rely exclusively on the Universal Service Fund ("USF") disbursements to operate, but rather relies on revenues it receives from providing non-Lifeline wireline (and soon wireless) service, the payment for service by Lifeline customers, as well as high-speed Internet services. In addition, Xchange has not been subject to any type of enforcement action or ETC revocation proceeding by the FCC or any state utility regulatory commission.

Xchange is working with T-Mobile to resell T-Mobile's wireless services to non-Lifeline customers in New York and elsewhere. As a Lifeline service provider, Xchange would continue to work with T-Mobile, who provides the necessary network infrastructure and wireless facilities necessary for the operation of Xchange's services as a Mobile Virtual Network Operator ("MVNO"). As the Commission is aware, T-Mobile is a large, nationwide carrier who provides similar service to other wireless Lifeline providers operating as MVNOs. Xchange's agreement and partnership with T-Mobile further demonstrates its financial and technical capability to provide these services.

**(c) detailed information, including geographic locations, of the carrier's current service offerings if the carrier currently offers service;**

As detailed in response to Question 1(a) above, Xchange currently provides local and interstate wireline and is planning to provide wireless services in numerous states, with an emphasis on New York.

**(d) the terms and conditions of each Lifeline service plan offering, including rates, the number of minutes provided and additional charges, if any, for toll calls;**

Currently, Xchange plans to offer the following wireless Lifeline plans and services, subject to state specific requirements or requests from state PUCs. These plans are offered to both Lifeline and non-Lifeline subscribers, with a discount applied to the Lifeline customer. Services will be offered on a postpaid basis.

All of Xchange's Lifeline wireline customers currently pay a monthly fee for the discounted service, will normally have an activation fee and will likely require a monthly payment from the customer. In addition, equipment may be purchased or leased from Xchange. The prices listed below show the basic, non-Lifeline price and the price to the consumer with the \$9.25 Lifeline credit applied. All plans will likely require a monthly payment by the customer. Xchange commits to providing a minimum of 1000 minutes per month for the \$9.25 subsidy; speed of 3G or better and usage of at least 3 GB per month.

Xchange is still determining the exact plans it will offer (reiterating the condition that plans will provide a minimum of 1000 minutes for the \$9.25 subsidy), but a sample plan would be as follows:

Xchange Mobile Telerific – Regular Price – 25.24; Lifeline Price – 15.99

Features	Cost
Unlimited USA Calling Voice/Text	Included
Data	Up to 3Gb per month
Call Waiting	Included
3 Way Calling	Included
Caller ID	Included
VoiceMail	Included
911	Free
611 (Customer Service)	Free
Directory Assistance	\$1.50

Activation Fee: \$25.00

**Additional Minutes:** For all service plans the customer can purchase additional voice, data, MMS, text minutes for \$0.05 per minute with a minimum purchase of \$5.00. For example, 100 additional minutes will cost \$5.00. The customer will have the ability to purchase 100 minutes (\$5.00); 200 minutes (\$10.00); 300 minutes (\$15.00) and 500 minutes (\$25.00). For Unlimited service plans the customer will not need additional voice or text but will need to purchase additional minutes for data and MMS. MMS is priced at \$0.15 per minute and Data is \$0.05 per MB.

**Text Messages:** The service plans include text messaging; text messaging rates are assessed at 1 minute per text message sent and 1 minute per text message received.

**Other:** Plans do not permit rollover minutes or data. Top Ups are available for a 30-day period if the customer renews the service at the normal plan rate. Plans do not allow roaming. The \$25.00 Activation Fee includes selection of a basic handset which is activated and provided ready for use. Customers can call internationally but will be assessed the international rates. International text rates are \$0.20 per minute for messages sent or received. Special Promotional offer: 10 MB data FREE for 3 months with the selection of a data capable phone.

**(e) all other certifications required under newly amended section 54.202 of the Commission's rules.**

Section 54.202 requires ETCs to (1) certify that it will comply with the applicable service requirements; (2) file a five-year plan detailing proposed improvements or upgrades in the network unless the ETC is receiving only Lifeline support; (3) demonstrate that it will continue to function in emergency situations including reasonable back-up backup power and emergency traffic management; (4) demonstrate that the carrier will comply with applicable consumer protection and service quality standards; (5) demonstrate that it is financially and technical qualified to provide Lifeline services that comply with the applicable rules; and (6) provide information concerning the terms and conditions of the service plans offered to Lifeline customers.

In response to item (1), Xchange certifies that it will comply with applicable service requirements and regulations for Lifeline support.

In response to item (2), Xchange is not required to submit a five-year plan since it is seeking to obtain only Lifeline support for its eligible customers.

In response to item (3), as a CLEC provider in multiple states for almost 18 years, Xchange has significant experience with emergency preparedness. Xchange has detailed Emergency Action and Disaster Recovery Plans in place to respond to emergencies. In addition, Xchange's agreement with T-Mobile provides for the continuation of services during emergencies and sets forth obligations for the service to remain functioning during disasters and similar emergency situations. In addition, as a nationwide carrier and provider of wireless service, T-Mobile also remains subject to the Commission's authority and must, and does, comply with federal outage reporting requirements.

In response to item (4), Xchange certifies that it will comply with the applicable consumer protection and service quality standards. As an operating CLEC in many states, Xchange is already subject to states consumer protection and service quality requirements. Xchange's wireless Lifeline customers will also receive the same quality service and protections.

Xchange's response to items (5) and (6) are provided above and in the provided exhibits.

(2) A detailed explanation of how the carrier will comply with the Commission's new rules relating to determinations of subscriber eligibility for Lifeline services, including all consumer eligibility, consumer enrollment and re-certification procedures as required by Section VI and Appendix C of the Lifeline Reform Order, and a copy of the carrier's certification form;

Under the *Lifeline Reform Order*, ETCs must comply with eligibility rules for Lifeline services, including initial eligibility, certification, and annual re-certification procedures. In addition to the Commission's rules, Xchange must also comply with all certification and verification requirements for Lifeline eligibility established by states where Xchange is designated as an ETC. For states that do not have a Lifeline administrator or state agency responsible for determining eligibility and initial certifications and annual certifications, Xchange certifies it will comply with the Commission's certification and verification requirements and will follow the procedures outlined below until such time as the Commission implements its planned National Lifeline Accountability Database.

Procedures for Initial Eligibility Determination and Certification of Lifeline Subscribers.

With respect to determining eligibility certification procedures, the rules provide that an ETC must determine a Lifeline applicant's eligibility and provide and receive certification forms with proper documentation from Lifeline subscribers, except where there is a state Lifeline administrator or a state agency responsible for eligibility verification.

In states where there is a third party entity acting as the Lifeline administrator who is responsible for determining the eligibility of consumers seeking to subscribe to Lifeline service, sending out certification forms, reviewing documentation and providing ETCs with the appropriate approval of a potential subscriber's eligibility for Lifeline, Xchange will comply with the program rules established in those states and will cooperate fully with any state Lifeline administrator.

Based on Xchange's history of providing Lifeline and non-Lifeline customers in wireline products, Xchange's primary source of signing up Lifeline customers will be via in person at locations

staffed by Xchange employees. Visitors to Xchange's website will be given information about the program and have the option to contact Xchange directly via telephone or to sign up via a web-form to complete the sign-up process. These callers speak to Xchange employees who are specially trained on the Lifeline programs. Xchange's customer services representatives will review income- and program-based requirements with applicants via telephone contact. During the initial sign up for service, Xchange will (a) require the applicant to confirm that he or she is not already receiving a Lifeline service and that no one else in the applicant's household is subscribed to a Lifeline service in order to avoid providing duplicate services; and (b) inform the applicant of both the income- and program-based eligibility requirements to determine initial eligibility and any state-specific requirements.

Customers are offered the choice to either sign up for service as a non-Lifeline customer pending confirmation of eligibility, or to have their application for service held pending confirmation of eligibility. Xchange offers customers the first month as a contingent discount, at Lifeline prices, from Xchange's own expense. In the event the customer chooses to proceed, they are processed as a new non-Lifeline customer and the verification process continues as described below. The customer would only be given the permanent Lifeline subsidy when they have satisfied the verification process, either through the state administrator or Xchange's internal process. If the customer is eventually deemed ineligible, they receive no credit, except for the first month, which comes out of Xchange's own funds and is not submitted for reimbursement. Where the customer chooses to wait for confirmation of eligibility before starting service, the employee will take down the relevant information from the consumer, including payment information, but the order is then held pending verification of eligibility. Only if the customer is determined to be eligible is the order processed.

The Verification process varies by state, in states with a Lifeline administrator, if a new applicant indicates that he or she is eligible for Lifeline service, Xchange will provide the applicant's



relevant information to the administrator in conformance with any state or Lifeline administrator specific rules. The Lifeline administrator will provide the requisite forms and will be responsible for processing those forms when returned and ensuring the documentation is satisfactory as set forth in state regulations. Xchange will not provide Lifeline service or seek reimbursement for providing services to such applicant until it receives a certification of eligibility from the Lifeline administrator.

In states where there is no Lifeline administrator or state agency responsible for determining initial eligibility and certifying Lifeline applicants, Xchange will require all applicants to demonstrate either: (1) the applicant's household income is at or below 135% of the Federal Poverty Guidelines based on the income-eligibility criteria set forth in Sections 54.409(a)(1) or (a)(3) or (2) the applicant participates in Medicaid, Food Stamps, Supplemental Security Income, Federal Public Housing Assistance, Low-Income Home Energy Assistance Program, National School Lunch Program or Temporary Assistance for Needy Families. Xchange utilizes, where available, the National Verifier system to determine eligibility. As required to prevent suspected duplications, Xchange will also require the customer to complete the Lifeline Household Worksheet issued by USAC to ensure that duplicate support is not provided to any household.

Xchange will inform the applicant that any information provided will be submitted to USAC as necessary under the Commission's rules to verify the household is not receiving duplicate Lifeline support.

After confirming initial eligibility either in person or over the phone, Xchange will provide the individual with an application via mail requiring him or her to provide certain information and certify that they meet either the income-based eligibility requirements or the program-based requirements, make certain certifications and submit documentation, which can be filled out online. If the customer utilizes the National Verifier system, much of the information will be entered into that system. Specifically, Xchange's Lifeline application form will collect the following information

from the potential Lifeline customers: (i) the subscriber's full name; (ii) the subscriber's full residential street address (P.O. Boxes will not be acceptable); (iii) whether the residential address is permanent or temporary; the subscriber's billing address, if different; (v) the subscriber's date of birth; (vi) the last four digits of the subscriber's Social Security number (or Tribal identification number if the subscriber is a member of a Tribal nation and does not have a Social Security number); (vii) if the subscriber is seeking to qualify for Lifeline under the program-based criteria, the name of the qualifying assistance program from which the subscriber, or his or her dependents, or his or her household receives benefits; and (viii) if the subscriber is seeking to qualify for Lifeline under the income-based criterion, the number of individuals in his or her household.

In addition, as part of the Lifeline application, Xchange will require all Lifeline applicants to certify, under penalty of perjury, that:

- the applicant meets the income-based or program-based eligibility criteria for receiving Lifeline either because the household receives benefits from a state or federal assistance program (and list the name of the program) or has income at or below 135% of the Federal Poverty Guidelines;
- the applicant has provided documentation to Xchange that correctly and accurately confirms the subscriber's household income or participation in the above-listed program(s);
- the applicant will notify its carrier within thirty (30) days if, for any reason, he or she no longer satisfies the criteria for receiving Lifeline including, as relevant, if the applicant no longer meets the income-based or program-based criteria for receiving Lifeline support, the applicant is receiving more than one Lifeline benefit, or another member of the subscriber's household is receiving a Lifeline benefit. The applicant will also certify that they understand this requirement and may be subject to penalties if they fail to notify Xchange;
- if the applicant moves to a new address, he or she will provide that new address to the eligible telecommunications carrier within thirty (30) days;
- if the applicant provided a temporary residential address to the eligible telecommunications carrier, he or she will be required to verify his or her temporary residential address every ninety (90) days;
- the applicant acknowledges that the subscriber will be required to re-certify his or her continued eligibility for Lifeline at any time, and the applicant's failure to re-certify as to his or her continued eligibility will result in de-enrollment and the termination of the applicant's Lifeline benefits;
- the applicant's household will receive only one Lifeline service and, to the best of his or her knowledge, the subscriber's household is not already receiving a Lifeline service;

- the information contained in the applicant's certification form is true and correct to the best of his or her knowledge, that providing false or fraudulent documentation or information in order to receive assistance is punishable by fines, imprisonment, de-enrollment or being barred from the program;
- That a violation of the one-per-household rule constitutes a violation of FCC rules and will result in their de-enrollment from the Lifeline program
- the applicant understands that Lifeline is a non-transferable benefit and the service may not be transferred to anyone else; and
- the applicant understands their information, including name, telephone number and address, will be given to the Universal Service Administrative Company (USAC) and/or its agents for the purpose of verifying the applicant and the applicant's household do not receive more than one Lifeline benefit and consenting to the inclusion of that information into a Lifeline database.

A sample Xchange application is attached hereto as Exhibit A.

This application is mailed by Xchange to the customer for completion and is returned to Xchange for review and certification or completed in person or online by the Customer. All applications are reviewed by Xchange employees. Should Xchange engage sales agents to assist in signing up customers, those applications will also be reviewed by Xchange employees to ensure the applicant's eligibility.<sup>51</sup> This review includes a review to determine eligibility as well as a duplicate review process described below. Xchange will make itself available as a direct point of contact with all Lifeline applicants. In addition, all Xchange employees who have contact with potential Lifeline customers will be fully trained on the state and Commission Lifeline eligibility rules.

If Xchange cannot determine a prospective subscriber's eligibility through a review of an appropriate federal or state database, Xchange personnel will require the submission of appropriate documentation required to establish income-based and program-based eligibility and will review each subscriber's documentation for compliance with the eligibility criteria. If documentation is not enough or if the application is incomplete, then Xchange will deny the

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<sup>51</sup> In states with a Lifeline Administrator, this process would be handled pursuant to the procedures of the Administrator.

application and inform the applicant of the reason for such rejection. For applicants submitting proof of income- eligibility or program-based eligibility, Xchange will not retain copies of such documentation but will maintain accurate records detailing how the customer demonstrated his or her eligibility.<sup>52</sup> In addition, if the subscriber provides Xchange with a temporary address, it will verify with the subscriber every 90 days that this address remains valid. If the subscriber fails to respond to the Xchange within 30 days, the subscriber will be de-enrolled from the Lifeline program.

**Procedures for Annual Re-Certification.**

**Like the initial certification process, an ETC must annually certify all subscribers, unless there is a Lifeline administrator that is responsible for re-certification. In states where a Lifeline administrator is responsible for completing annual re-certifications, Xchange will rely on such administrator completing the annual certification. If the Lifeline administrator provides notice to Xchange that a current subscriber did not re-certify, then Xchange will comply with the de-enrollment requirements required by the FCC's rules. Xchange will cooperate fully with any Lifeline administrator and take any necessary steps to ensure it is in compliance with both state and federal re-certification procedures.**

In states where there is not a Lifeline administrator, Xchange will require its Lifeline subscriber to annually re-certify their eligibility as set forth in Rules 54.410(±)(2) and (f)(5) and 54.405(e)(4). Xchange may complete the re-certification process on a rolling basis throughout the year. If Xchange cannot determine on-going eligibility by accessing a qualifying database, Xchange will re-certify the continued eligibility of its subscribers by contacting them in person, in writing (by mail), by phone, by text message, by email or otherwise through the Internet.<sup>53</sup> Alternatively, beginning in 2013, Xchange may elect to have the USAC administer the annual self-certification process.<sup>54</sup>

As part of the re-certification process, Xchange will inform its Lifeline subscribers that they must confirm eligibility to retain Lifeline benefits, when Lifeline benefits will be terminated if confirmation of eligibility is not provided and how to contact Xchange for more information or assistance. If a Lifeline subscriber does not respond to the notice within 30 days, Xchange will send a notice of impending termination. Subscribers who do not respond to the impending termination notice will be de-enrolled from the Lifeline

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<sup>52</sup> 47 C.F.R. §§ 54.410(b)(1)(ii)-(iii) and 54.410(c)(1)(ii)-(iii).

<sup>53</sup> *Lifeline Reform Order*, 130.

<sup>54</sup> *Id.*, 133.

program within five business days.<sup>55</sup>

**(3) A detailed explanation of how the carrier will comply with the forbearance conditions relating to public safety and 911/E-911 access;**

The Commission conditioned its grant of forbearance on an ETC (a) providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes; (b) providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services.<sup>56</sup> Xchange's wireless service currently complies with these requirements and will continue to comply with these conditions.

Specifically, Xchange provides its wireless subscribers with 911/E911 access at the time their service is initiated, regardless of activation status and availability of minutes and provides its subscribers with E911-compliant handsets. It is the company's practice to provide access to 911/E911 to the extent these services are available from the underlying carrier, T-Mobile. Xchange also enables 911 emergency calling from all properly activated handsets regardless of whether the account associated with the handset is active, suspended to terminated. Xchange will transmit all 911 calls initiated from any of its handsets even if the associated account has no remaining minutes.

In addition, all phones provided by Xchange are 911/E911 compliant. Xchange uses phones from Sprint that, based on representations made to Xchange by Sprint, have been through the applicable certification process in the company's labs. If a customer does not have an E911-complaint handset, Xchange will replace it with a compliant handset at no charge. All new customers who qualify for Lifeline services with Xchange will receive a 911/E911-compliant handset free of charge.

**(4) A detailed explanation of how the carrier will comply with the Commission's marketing and disclosure requirements for participation in the Lifeline program;**

Xchange has experience in providing clear, concise and consistent marketing and disclosure information to its wireline Lifeline to its customers. With respect to its wireless services, Xchange

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<sup>55</sup> 47 C.F.R. § 54.405(e)(4).

<sup>56</sup> *Lifeline Reform Order*, ¶ 373.

will emphasize in clear, easily understood language: (a) that the service is a Lifeline-supported service; (b) that only eligible consumers may enroll in the program; (c) what documentation is necessary for enrollment; and (d) that the benefit is limited to one per household consisting of either wireline or wireless service and is non-transferrable. Xchange will also explain that Lifeline is a government benefit program and willfully making false statements to obtain Lifeline benefits may be punished by fine or imprisonment or result in being barred from the program. Xchange has and will continue to clearly disclose its name (Xchange or Xchange Telecom) on all marketing materials. A sample advertisement to be used as a model for creation of state-specific advertisements is attached hereto as Exhibit B.

- (5) **A detailed explanation of the carrier's procedures and efforts to prevent waste, fraud and abuse in connection with Lifeline funds, including but not limited to, procedures the carrier has in place to prevent duplicate Lifeline subsidies within its own subscriber base, procedures the carrier undertakes to de-enroll subscribers receiving more than one Lifeline subsidy per household, information regarding the carrier's toll limitation service, if applicable, and the carrier's non-usage policy, if applicable.**

Xchange fully understands and shares the Commission's commitment to minimize waste, fraud and abuse with respect to the Lifeline program. Xchange derives less than a quarter of its revenue from Low Income service. Nonetheless, Xchange has focused its operations in a few states, with a goal of focused growth, to be offered initially in New York where Xchange is already a wireline ETC. This approach has allowed Xchange to refine its business practices and to implement policies consistent with the Commission's goal of minimizing waste, fraud and abuse before launching its service nationwide at some time in the future.

Prevention of Duplicates in Xchange's Subscriber Base. At time of initial sign up of a new subscriber, the subscriber's service address is validated for accuracy against the USPS ("United States Postal Service") database and saved in the USPS-approved format, which permits the Xchange subscriber database to more accurately prevent duplicates by preventing variations of the same address from appearing multiple times in the database. Once the address is validated for accuracy and format,

Xchange can check it in available databases, including NLAD, or provide it to the Lifeline administrator, where applicable, to be checked against addresses for all Lifeline customer addresses for the entire state.

Activation and Non-Usage Policy. Xchange will not consider a wireless subscriber activated until the customer has chosen a *non-Lifeline* service plan, activates their service by paying the activation fee, and then applies for and is approved for a Lifeline service plan. Adhering to this "prequalification guideline" prevents waste, fraud and abuse by requiring customers to first sign up for service at regular rates and then only provide discounted service once the customer's eligibility has been confirmed through verification or a Lifeline administrator. As such, Xchange will not seek reimbursement for any wireless subscriber until the subscriber activates service and is approved by the Lifeline administrator or by Xchange, in states without a third-party Lifeline administrator. Customers who wish to be confirmed as an eligible Lifeline subscriber prior to commencing service can place a non-Lifeline order and have the order held pending verification of eligibility as described above. Because customers do not receive their handset and service until they have an order processed and the activation fee is paid, customers receive activated handsets. Thus, there is no possibility of Xchange receiving reimbursement for a customer who does not have an active handset. After the order is processed, Xchange personnel activate, configure and test the handsets before they are sent to the consumer. Thus, all customers receive an activated handset.

As required by the *Lifeline Reform Order*, Xchange has implemented a non-usage policy under which it will de-enroll Lifeline customers that have not used the Xchange's Lifeline service for 60 consecutive days. When consumers sign-up for Xchange's service, Xchange will inform them about the usage requirement. If a Xchange Lifeline customer's account does not reflect any usage during any consecutive 60-day period, Xchange will deactivate the customer's Lifeline service. Accounts will be deemed active if the Lifeline subscriber: (a) completes an outbound call; (b) purchases minutes or an additional month of service to add to the subscriber's Lifeline service plan; (c) answers an incoming

call from a party other than Xchange, its agent or representative; or (d) responds to a direct contact from Xchange and confirms that he or she wants to continue receiving the Lifeline service.<sup>57</sup>

For Lifeline subscribers failing to use their Lifeline service for a 60-day consecutive period as described above, Xchange will provide a clear, easily understood notice that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage. Xchange will not terminate service to Lifeline subscribers that use their Lifeline service within 30 days of Xchange providing said notice.<sup>58</sup>

Cooperate with Federal and State Regulators and Lifeline Administrators. Xchange will cooperate with the Commission and has and will continue to cooperate with state regulators and Lifeline administrators to prevent waste, fraud and abuse. Xchange will, for example:

- As applicable, participate in industry working groups conducted by or in coordination with state commissions and Lifeline administrators;
- Respond to requests from the Commission, USAC or state commissions concerning consumers' eligibility to be enrolled in Lifeline service, among other matters;
- Upon having a reasonable basis and/or upon any notification from federal or state commissions and/or Lifeline administrators, timely investigate issues concerning a Xchange Lifeline customer receiving service from another carrier or customers receiving more than one Lifeline subsidy per household;
- As applicable and when available, access the National Lifeline Accountability Database to determine if an applicant is currently receiving Lifeline service from another carrier or if another person residing at the applicant's residential address is receiving Lifeline service; and
- Comply with federal and state audit requirements.

## CONCLUSION

Xchange respectfully submits that the foregoing Compliance Plan fully satisfies the conditions set forth in the *Lifeline Reform Order*. Accordingly, Xchange respectfully requests approval of this Compliance Plan so that Xchange can provide essential Lifeline wireless service to

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<sup>57</sup> See *Lifeline Reform Order*, ¶ 261; 47 C.F.R. § 54.407(c)(2).

<sup>58</sup> 47 C.F.R. § 54.405(e)(3).



eligible low-income customers nationwide.

Respectfully submitted,

*[sl electronically signed*

Mordy Gross

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Date: July 16, 2020

**EXHIBIT 4**

**Coverage Area**



Xchange – Current Zip Code Coverage in NEW JERSEY

07001	07055	07109	07428	07602	07715	07823	07890
07002	07057	07110	07430	07603	07716	07825	07901
07003	07058	07111	07432	07604	07717	07826	07902
07004	07059	07112	07435	07605	07718	07827	07920
07005	07060	07114	07436	07606	07719	07828	07921
07006	07061	07175	07438	07607	07720	07829	07922
07007	07062	07184	07439	07608	07721	07830	07924
07008	07063	07188	07440	07620	07722	07831	07926
07009	07064	07189	07442	07621	07723	07832	07927
07010	07065	07191	07444	07624	07724	07833	07928
07011	07066	07192	07446	07626	07726	07834	07930
07012	07067	07193	07450	07627	07727	07836	07931
07013	07068	07195	07451	07628	07728	07837	07932
07014	07069	07198	07452	07630	07730	07838	07933
07015	07070	07199	07456	07631	07731	07839	07934
07016	07071	07201	07457	07632	07732	07840	07935
07017	07072	07202	07458	07640	07733	07842	07936
07018	07073	07203	07460	07641	07734	07843	07938
07019	07074	07204	07461	07642	07735	07844	07939
07020	07075	07205	07462	07643	07737	07845	07940
07021	07076	07206	07463	07644	07738	07846	07945
07022	07077	07207	07465	07645	07739	07847	07946
07023	07078	07208	07470	07646	07740	07848	07950
07024	07079	07302	07474	07647	07746	07849	07960
07026	07080	07303	07480	07648	07747	07850	07961
07027	07081	07304	07481	07649	07748	07851	07962
07028	07082	07305	07495	07650	07750	07852	07963
07029	07083	07306	07501	07652	07751	07853	07970
07030	07086	07307	07502	07653	07752	07855	07974
07031	07087	07308	07503	07656	07753	07856	07976
07032	07088	07310	07504	07657	07754	07857	07977
07033	07090	07311	07505	07660	07755	07860	07978
07034	07091	07395	07506	07661	07756	07863	07979
07035	07092	07399	07507	07662	07757	07865	07980
07036	07093	07401	07508	07663	07758	07866	07981
07039	07094	07403	07509	07666	07760	07869	07999
07040	07095	07405	07510	07670	07762	07870	08001
07041	07096	07407	07511	07675	07763	07871	08002
07042	07097	07410	07512	07676	07764	07874	08003
07043	07099	07416	07513	07677	07765	07875	08004
07044	07101	07417	07514	07699	07799	07876	08005
07045	07102	07418	07522	07701	07801	07877	08006
07046	07103	07419	07524	07702	07802	07878	08007
07047	07104	07420	07533	07703	07803	07879	08008
07050	07105	07421	07538	07704	07806	07880	08009
07051	07106	07422	07543	07710	07820	07881	08010
07052	07107	07423	07544	07711	07821	07882	08011
07054	07108	07424	07601	07712	07822	07885	08012

Xchange – Current Zip Code Coverage in NEW JERSEY

08014	08068	08213	08329	08543	08752	08858
08015	08069	08214	08330	08544	08753	08859
08016	08070	08215	08332	08550	08754	08861
08018	08071	08217	08340	08551	08755	08862
08019	08072	08218	08341	08553	08756	08863
08020	08073	08219	08342	08554	08757	08865
08021	08074	08220	08343	08555	08758	08867
08022	08075	08221	08344	08556	08759	08868
08023	08076	08223	08345	08558	08801	08869
08025	08077	08224	08346	08559	08802	08870
08026	08078	08225	08347	08560	08803	08871
08027	08079	08226	08348	08561	08805	08872
08028	08080	08230	08349	08562	08807	08873
08029	08081	08231	08350	08609	08808	08875
08030	08083	08232	08352	08610	08809	08876
08031	08084	08234	08353	08611	08810	08879
08032	08085	08240	08360	08618	08812	08880
08033	08086	08241	08361	08619	08816	08882
08034	08087	08242	08362	08620	08817	08884
08035	08088	08243	08401	08628	08818	08885
08036	08089	08244	08402	08629	08820	08886
08037	08090	08245	08403	08638	08821	08887
08038	08091	08246	08404	08640	08822	08888
08039	08092	08247	08405	08641	08823	08889
08041	08093	08248	08406	08648	08824	08890
08042	08094	08251	08501	08650	08825	08899
08043	08095	08252	08502	08690	08826	08901
08045	08096	08260	08504	08691	08827	08902
08046	08097	08270	08505	08701	08828	08903
08048	08098	08302	08510	08720	08829	08904
08049	08099	08310	08511	08721	08830	08906
08050	08101	08311	08512	08722	08831	08933
08051	08102	08312	08514	08723	08832	08989
08052	08103	08313	08515	08724	08833	
08053	08104	08314	08518	08730	08834	
08054	08105	08315	08520	08731	08835	
08055	08106	08316	08525	08732	08836	
08056	08107	08317	08526	08733	08837	
08057	08108	08318	08527	08734	08840	
08059	08109	08319	08528	08735	08844	
08060	08110	08320	08530	08736	08846	
08061	08201	08321	08533	08738	08848	
08062	08202	08322	08534	08739	08850	
08063	08203	08323	08535	08740	08852	
08064	08204	08324	08536	08741	08853	
08065	08205	08326	08540	08742	08854	
08066	08210	08327	08541	08750	08855	
08067	08212	08328	08542	08751	08857	

**EXHIBIT 5**

**Sample Advertisement**

# DISCOVER A NEW MOBILE SOLUTION

## MOBILE Telerific



MOBILE Telerific 

**\$25<sup>24</sup>\***

**LIFELINE**  
NY RESIDENTS ONLY

**\$15<sup>99</sup>\***

Feature	Cost
Unlimited USA Calling Voice/Text	Included
Data	Up to 3Gb per month
Call Waiting	Included
3 Way Calling	Included
Caller ID	Included
Voicemail	Included
911	Free
611 (Customer Service)	Free
Directory Assistance	\$1.50

Activation Fee: \$25.00

Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household.

**EXHIBIT 6**

**Key Management Bios**



## **Xchange Communications, Inc.**

### **Executive Bios**

#### **Xchange Telecom LLC Executive Bios**

##### **Alfred West, CEO**

Alfred West founded Xchange Telecom in 2002. Xchange Telecom has grown rapidly to over 25,000 customers and 100 employees. Prior to Xchange, Alfred was the founder of Destia communications, a global telecom enterprise with operations and customers in 11 countries and more than \$350 million in annual revenue. Destia went public in May 1999 and was subsequently sold to Viatel in December 1999 for more than \$1 billion.

##### **Mordy Gross, SVP Legal and Finance**

Mordy Gross, a graduate of the Benjamin N. Cardozo School of Law, Yeshiva University, is the Senior Vice President of Legal and Finance. Admitted in NY and NJ, Mr. Gross has over 10 years' experience with federal and state compliance, especially telecommunications regulatory compliance. In addition to Legal and HR, Mr. Gross is the acting CFO and oversees the Finance Department. Mr. Gross joined Xchange in 2010 as General Counsel.

##### **David Beck, Controller**

David joined Xchange in 2011 after working in the public and private sectors since 1987. He received a Bachelor of Science degree in accounting from Arizona State University with Magna Cum Laude and Dean's List honors. From 1987 through 2004, David worked in public accounting receiving his CPA in 1991. In 2004, he transitioned his skills into the private sector taking a controllership in an electronics company. David joined Xchange at an exciting time in 2011 when changes in the telecom industry necessitated Xchange's foray into new ventures. During this time, David led the charge to secure a new financing relationship allowing Xchange to expand and capture new business opportunities.

##### **Michael Posy, General Manager/Sr. Director of Operations.**

Michael Posy has worked in the Telecom industry for the past 10 Years. During this time, he has been directly involved with all facets of operations. This includes: Financial services, Customer care, field services, and business development. He is currently the General Manager of Xchange Telecom responsible for daily operations and the continued growth of residential voice and data services. Prior to Xchange, Michael worked in the real estate industry.