

**199—39.3 (476) Applying for designation as an eligible telecommunications carrier.**

**39.3(1)** A telecommunications carrier must be designated as an ETC to qualify for support from the federal universal service fund. The Iowa utilities board reviews applications for designation as an ETC for compliance with 47 U.S.C. § 214(e)(1) and grants ETC designations to qualified applicants for a service area designated by the board. If an applicant requests an expedited ruling from the board on an application to be designated as an ETC or on an amendment to an existing ETC designation, the applicant shall specify why an expedited process is necessary and why an expedited review would not be contrary to the public interest.

**39.3(2)** An application for an ETC designation must contain the following:

*a.* Where an applicant offers more than one type of communications service, a clear statement of which entity is requesting the designation.

*b.* A clear statement of the purposes for which the designation is sought, and a statement of financial and technical qualification to provide the supported service. An applicant shall specify whether designation is sought for purposes of receiving support from the high-cost fund or mobility fund; for Lifeline purposes only; or other specified purpose recognized by the Federal Communications Commission (FCC).

*c.* A certification that the applicant offers or intends to offer all services designated for support throughout the applicant's approved service area. The services designated for support are identified in 47 CFR § 54.101.

*d.* An explanation of how the carrier will provide voice telephony service as defined in 199—39.2(476) and 47 CFR § 54.101.

*e.* A certification that the applicant offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services. "Own facilities" includes unbundled network elements, in whole or in part. The facilities providing the services supported by the universal service fund need not be physically located in the area served. Wireless resellers shall provide the name of the facilities-based wireless carrier(s) whose services they are reselling and demonstrate they have an agreement with the carrier(s) in Iowa that will cover the applicant's proposed designated service area. Except for wireless resellers seeking ETC designation for Lifeline purposes only that have obtained FCC approval of a compliance plan and committed to certain 911 conditions, the board will not designate as an eligible telecommunications carrier a carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services.

*f.* A description of how the applicant advertises the availability of supported services and the charges therefor using media of general distribution.

*g.* A detailed description, including a map or maps, of the geographic service area for which the applicant requests an ETC designation from the board. Wireless telecommunications carriers, defined as commercial mobile radio service providers in 47 CFR Parts 20 and 24, shall file coverage area maps and maps that depict signal strength. Requests to withhold from public inspection maps depicting signal strength will be deemed granted as provided in 199—paragraph 1.9(5) "c."

*h.* Where the application is from a carrier seeking a designation as an ETC for an area served by a rural telephone company as defined in 47 CFR § 51.5, a demonstration that the requested designation is in the public interest.

*i.* A five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Applicants seeking designation only for purposes of receiving support from the Lifeline program are not required to submit a network improvement plan.

*j.* An affirmative statement explaining how the applicant will remain functional in emergency situations. The statement shall include examples illustrating that the applicant has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

*k.* A certification that the applicant will comply with the service requirements applicable to the support that it seeks to receive.

*l.* A certification that the applicant will satisfy applicable consumer protection and service quality standards. Wireless ETC applicants shall commit to complying with the following minimum consumer protection standards:

(1) Disclose rates and terms of service to consumers. For each service plan offered to new consumers, wireless carriers will disclose to consumers at point of sale and on their Web sites at least the following information, as applicable: (a) the coverage area for the service; (b) any activation or initiation fee; (c) the monthly access fee or base charge; (d) the amount and nature of any voice, messaging, or data allowances included in the plan (such as night and weekend minutes); (e) the charges for domestic usage in excess of any included allowances or outside of the coverage area; (f) for prepaid service plans, the period of time during which any balance is available for use; (g) whether there are prohibitions on data service usage and whether there are network management practices that will have a material impact on the customer's wireless data experience; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) the amount or nature of any late payment fee; (k) whether a fixed-term contract is required and its duration; (l) the amount and nature of any early termination fee that may apply; and (m) the trial period during which a consumer may cancel service without any early termination fee, as long as the consumer complies with any applicable return policy.

(2) Make available maps showing where service is generally available. Wireless carriers will make available at point of sale and on their Web sites maps depicting approximate domestic coverage applicable to each of their service plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain or link to an appropriate legend concerning limitations or variations, or both, in wireless coverage and map usage, including any geographic limitations on the availability of any services included in the plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request from roaming partners and incorporate coverage maps that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

(3) Provide contract terms to customers and confirm changes in service. When a customer initiates new service or a change in existing service, the carrier will provide or confirm any new material terms and conditions of the ongoing service with the customer.

(4) Allow a trial period for new service. When a customer initiates postpaid service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return policies and exchange policies. Other charges, including usage charges, may still apply.

(5) Provide specific disclosures in advertising. In advertising of prices for wireless service plans or devices, wireless carriers will disclose material charges and conditions related to the advertised prices and services, including if applicable and to the extent the advertising medium reasonably allows: (a) whether activation or initiation fees apply; (b) monthly access fees or base charges; (c) the amount and nature of any voice, messaging, or data service allowances included in the plan; (d) the charges for any domestic usage in excess of any included allowances or outside of the coverage area; (e) for prepaid service plans, the period of time during which any balance is available for use; (f) whether there are network management practices that will have a material impact on the customer's wireless data experience; (g) whether any additional taxes, fees or surcharges apply; (h) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (i) whether a fixed-term contract is required and its duration; (j) early termination fees; (k) the terms and conditions related to receiving a product or service for "free"; (l) for any service plan advertised as "nationwide" (or using similar terms), the carrier will have available substantiation for this claim; and (m) whether prices or benefits apply only

for a limited time or promotional period and, if so, whether any different fees or charges will apply for the remainder of the contract term.

(6) Separately identify carrier charges from taxes on billing statements. On customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal, state or local governments. Carriers will not label cost recovery fees or charges as taxes.

(7) Provide customers the right to terminate service for changes to contract terms. Carriers will not modify the material terms of their postpaid customers' contracts in a manner that is materially adverse to those customers without providing a reasonable advance notice of a proposed modification and allowing those customers a time period of not less than 14 days to cancel their contracts with no early termination fee.

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

(9) Promptly respond to consumer inquiries and complaints received from government agencies. Inquiries for information or complaints to a wireless ETC shall be resolved promptly and courteously. If a wireless ETC cannot resolve a dispute with the applicant or customer, the wireless ETC shall inform the applicant or customer of the right to file a complaint with the board. The wireless ETC shall provide the following board address and toll-free telephone number: Iowa Utilities Board, Customer Service, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069; 1-877-565-4450. When the board receives a complaint, the procedures set out in 199—Chapter 6, "Complaint Procedures," shall be followed to enforce the minimum consumer protection standards in paragraph 39.3(2) "l." When the board receives a complaint alleging the addition or deletion of a product or service for which a separate charge is made to a customer account without the verified consent of the customer, the complaint shall be processed by the board pursuant to 199—Chapter 6. In any complaint proceeding pursuant to this subparagraph, if the wireless ETC asserts that the complainant is located in an area where the wireless ETC is not designated as an ETC, the wireless ETC must submit evidence in support of its assertion.

(10) Abide by policies for protection of customer privacy. Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online. Each wireless carrier will abide by the Cellular Telecommunications and Internet Association's Best Practices and Guidelines for Location-Based Services.

(11) Provide consumers with free notifications for voice, data and messaging usage, and international roaming. Each wireless provider will provide, at no charge: (a) a notification to consumers of currently offered and future domestic wireless plans that include limited data allowances when consumers approach and exceed their allowance for data usage and will incur overage charges; (b) a notification to consumers of currently offered and future domestic voice and messaging plans that include limited voice and messaging allowances when consumers approach and exceed their allowance for those services and will incur overage charges; and (c) a notification to consumers without an international roaming plan/package whose devices have registered abroad and who may incur charges for international usage. Wireless providers will generate the notifications described above to postpaid consumers based on information available at the time the notification is sent. Wireless consumers will not have to affirmatively sign up in order for these notifications to be sent. Wireless providers will clearly and conspicuously disclose tools or services that enable consumers to track, monitor or set limits on voice, messaging and data usage.

(12) Abide by the mobile wireless device unlocking standards established in the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.

*m.* For applications from wireless carriers seeking designation as an ETC, a certification that the wireless carrier will contribute to the dual party relay service, as provided in Iowa Code section 477C.7(2)“a.”

*n.* For applications from carriers seeking designation as an ETC for any part of tribal lands, the applicant shall provide a copy of its application to the affected tribal government and tribal regulatory authority at the time it files the application with the board.

**39.3(3)** Amendments to ETC designations. ETCs may request that the board amend an existing ETC designation as provided in the following situations. Where the board approves of the amendment, the board will issue an order amending the designation.

*a. Asset transactions between ETCs other than Lifeline-only ETCs.* Where a telecommunications carrier that has been designated by the board as an ETC, other than a Lifeline-only ETC, acquires another carrier with an ETC designation, through an acquisition involving a sale or transfer of assets, and the acquiring carrier intends to serve as an ETC in the newly acquired service area, the acquiring carrier shall notify the board of the acquisition and certify that the acquiring carrier intends to amend its designation to assume the acquired carrier’s ETC obligations. The certification also shall indicate whether the acquiring carrier intends to adopt the network improvement plan of the acquired carrier. The notice of acquisition and certification shall be filed at least 90 days before the acquired carrier discontinues service. Where the acquisition involves a discontinuance of service by an incumbent local exchange carrier, the required notice and certification may be included with or as part of the acquired carrier’s application for discontinuance of service filed pursuant to Iowa Code section 476.20. The acquired carrier shall comply with the requirements for relinquishing an ETC designation in 199—39.8(476).

*b. Asset transactions between Lifeline-only ETCs.* Where a telecommunications carrier that has been designated by the board as a Lifeline-only ETC acquires another carrier that has been designated by the board as a Lifeline-only ETC through an acquisition involving a sale or transfer of assets, and the acquiring carrier intends to serve as a Lifeline-only ETC in the newly acquired service area, the acquiring carrier shall notify the board of the acquisition and certify that the acquiring carrier intends to amend its designation to assume the acquired carrier’s ETC obligations. The notice and certification shall be filed using the carriers’ ETA docket numbers at least 90 days before the acquired carrier will cease providing Lifeline service. The filing shall include copies of relevant documents filed with the FCC. The acquired carrier shall comply with the requirements for relinquishing an ETC designation in 199—39.8(476).

*c. Non-ETC acquires an ETC.* Where an entity that has not been designated by the board as an ETC acquires a telecommunications carrier that has been designated by the board as an ETC, and the acquiring entity intends to serve as an ETC in the newly acquired service area, the acquiring entity shall file with the board an application for designation as an ETC as provided in this rule. The acquired carrier shall comply with the requirements for relinquishing an ETC designation in 199—39.8(476).

*d. Other amendments.* Where a telecommunications carrier that has been designated by the board as an ETC intends to serve as an ETC in a new service area for the purpose of receiving support from the CAF Phase II auction or for other similar purpose, or after a telecommunications carrier has acquired a new service area pursuant to a transaction not subject to the provisions of Iowa Code section 476.20, the carrier shall file a notice of expansion or acquisition 30 days in advance of the expansion or acquisition and shall certify that the carrier intends to amend its designation to serve as an ETC in the expanded service area.

*e. Transfer of control transactions.* Where a carrier that has been designated by the board as an ETC is acquired through an acquisition involving a direct or indirect transfer of control, including through a purchase of stock or other equity interests, merger, share exchange or similar transaction in which neither the legal existence of the acquired carrier nor ownership of its assets is altered, the acquiring carrier shall file with the board a notice of the transfer of control 30 days in advance of the transfer of control. The notice shall be filed using an “M” docket designation. The board will acknowledge receipt of the notice by letter. Following a transfer of control, the ETC designation and ETC obligations of the acquired carrier shall continue without amendment or modification, unless the acquired carrier complies

with the requirements for relinquishing an ETC designation in 199—39.8(476). For purposes of this rule, any merger, share exchange or similar transaction in which the legal existence of the acquired carrier or ownership of its assets is altered will be deemed to be an acquisition involving a sale or transfer of assets and not a transfer of control.

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