

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

Docket No. 10A-488T

IN THE MATTER OF THE APPLICATION OF FLAT WEST WIRELESS, LLC  
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER  
IN THE STATE OF COLORADO.

---

STIPULATION AND SETTLEMENT AGREEMENT

---

Flat West Wireless, LLC ("Flat") and Trial Staff of the Public Utilities Commission of the State of Colorado ("Staff") (collectively the "Stipulating Parties" or the "Parties"), enter into this Stipulation and Settlement Agreement ("Stipulation") regarding the Applications filed by Flat in the instant docket. The Parties submit this Stipulation for approval by the Colorado Public Utilities Commission (the "Commission" or the "PUC") pursuant the Commission's Rules of Practice and Procedure, 4 CCR 723-1-1407 and 1408.

PRELIMINARY STATEMENT

1. On May 8, 1997, the Federal Communications Commission ("FCC") issued its Universal Service Report and Order, 12 FCC Rcd 8776 (1997) ("Universal Service Order") implementing the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Federal Act"). The FCC provided further guidance on ETC designation in its ETC Report and Order issued March 17, 2005,

Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Red 6371, 6384 (2005).

2. The Universal Service Order provides that only eligible telecommunications carriers ("ETCs") designated by a state public utilities commission ("State Commission") shall receive federal universal service support. Under 47 U.S.C. § 214(e), a State Commission shall, upon its own motion or upon request, designate a common carrier that meets the requirements set forth by the FCC as an ETC for a service area designated by the State Commission. The FCC defines a service area as a geographic area established by a State Commission for the purpose of determining universal service obligations and support mechanisms.

3. To be designated as a federal ETC under the Federal Act, a carrier must: (1) be a common carrier; (2) demonstrate an intent and ability to provision the supported services set forth in 47 C.F.R. § 54.101(a) throughout its designated service areas; and (3) demonstrate an intent and ability to advertise its universal service offerings and the charges therefor, using media of general distribution. 47 U.S.C. § 214(e); Universal Service Order, 12 FCC Red at 8791.

4. The FCC's supported services set forth in 47 C.F.R. § 54.101(a)(1)-(9) are:

- a. voice grade access to the public switched telephone network;
- b. local usage;
- c. dual tone multi-frequency signaling or its functional equivalent;
- d. single-party service or its functional equivalent;
- e. access to emergency services;
- f. access to operator services;

- g. access to interexchange service;
- h. access to directory assistance;
- i. toll limitation for qualifying low-income consumers.

5. In areas served by a rural telephone company, 47 U.S.C. § 214(e)(2) further requires the Commission to determine that the designation of an additional ETC is in the public interest.

6. The Commission has adopted its own rules for implementing 47 U.S.C. Section 214(e)(1)-(2) of the Act which appear at 4 CCR 723-2-2180 through 2191, which rules are consistent with Section 214(e) and the FCC's Rules.

7. On July 12, 2010, Flat filed an Application seeking designation as an ETC for the limited purpose of receiving universal service support for low-income customers in its licensed service areas in counties in Colorado, Docket Number 10A-488T. In its Application, Flat sought ETC designation for the limited purpose of offering Lifeline service in three exchanges located in its licensed service areas. A map showing Flat's current facilities based coverage area in Colorado shown on Exhibit A to the Application.

8. On July 14, 2010, Staff of the Commission notified Flat of deficiencies that had been identified in the Application.

9. On July 15, 2010, Flat filed an amended Application.

10. Flat and Staff engaged in settlement discussions in an attempt to resolve their differences regarding issues raised by the Flat's Application.

11. Flat and Staff have now reached agreement on the issues raised in this docket, as is set forth herein. This Stipulation and Settlement Agreement is entered into for the

purpose of avoiding the costs and risks of litigation. The Parties agree this Stipulation should have no legal effect outside of the instant docket.

#### AGREEMENT

WHEREFORE, based on their review of application and exhibits submitted and upon their settlement discussions, the Parties hereby stipulate and agree as follows:

##### **Federal ETC Designation For the Limited Purpose of Offering Lifeline**

1. Flat is a commercial mobile radio service ("CMRS") provider, and a common carrier as defined by 47 U.S.C. § 153(10) and 47 C.F.R. § 20.9(a)(7).

2. Flat provides each of the supported services set forth in 47 C.F.R. § 54.101(a)(1)-(9), and it has shown an intent and ability to offer those services once designated throughout the areas set forth on Exhibit B of its Application.

3. Flat will make available Lifeline service to qualifying low-income consumers. Flat will not offer Link-Up to qualifying low-income consumers.

4. Flat has requested ETC designation in the Qwest wire center set forth on Attachment I of this Stipulation.

5. Flat has requested ETC designation throughout the study areas for the rural telephone companies set forth on Attachment 2 of this Stipulation.

6. Flat meets the federal and Colorado requirements in 47 U.S.C. § 214(e)(1)-(2) and 4 CCR 723-2-2187(a)-(d) (respectively) for designation as an ETC.

7. In full settlement of differences raised in the course of this proceeding, the Parties stipulate and agree that designating Flat as an ETC in the service areas set forth on Attachments 1 and 2 to this Stipulation, as provided below, serves the public interest, convenience and necessity, as defined in defined in 47 U.S.C. § 214(e)(2) and §§ 40-15-



101, 40-15-501, and 40-15-502, C.R.S., and 4 CCR 723-2-2187(a)-(d), and recommend that the Commission grant Flat's Application for ETC designation in accordance with this Stipulation as follows:

A. Flat should be designated as an ETC in the non-rural service areas set forth on Attachment 1 effective immediately. Attachment 1 lists the non-rural wire centers served by Qwest in which Flat seeks designation-as an ETC for the limited purpose of providing Lifeline.

B. Flat should be designated as an ETC in the rural service areas set forth on Attachment 2 effective immediately. Attachment 2 lists the rural wire centers served by Delta County Telecommunications, Inc. that are within Flat's licensed service territory and for which Flat seeks designation in the ILECs' study areas.

8. The Parties stipulate and agree that designating Flat as an ETC in the study areas and wire centers set forth in Attachments 1 and 2 serves the public interest, convenience and necessity, as defined in 47 U.S.C. § 214(e)(2) and §§ 40-15-101, 40-15-501, and 40-15-502 C.R.S.

9. Flat will adhere to the CTIA Consumer Code for Wireless Service ("Code") in the provision of its Lifeline BUS and all other universal service offerings, and agrees that the Commission has authority to enforce Flat's compliance with such Code provisions pursuant to Rule 2187(f)(II)(D).

10. Without waiving any of its positions stated in this proceeding, Flat has entered into this Stipulation with Staff to settle pending litigation. Thus, the Parties stipulate and agree that Flat shall provide its ETC Lifeline universal service offerings in Colorado pursuant to this Stipulation (including attachments) and in accordance with a written

Customer Service Agreement which shall contain Terms and Conditions in the form contained in Attachment 3. In addition, the Operating Procedures applicable to Flat's Lifeline BUS offering in Colorado are contained in Attachment 4 and its Service Description is set forth in Attachment 5 to this Stipulation. A current copy of the Customer Service Agreement, Service Description, Terms and Conditions and the Operating Procedures and any amendments thereto, shall be kept on file with the Commission for informational purposes. Flat will price its Lifeline BUS offering in Colorado as described in the Service Description, Attachment 5. Additional offerings, at different rates and with different features, may be offered by Flat according to the terms of this Stipulation. The Parties recommend that Flat's provision of its universal service offering as an ETC be governed by the following additional requirements:

A. Before offering its universal service product in the areas covered by Attachments 1, and 2, Flat shall make a filing with the Commission containing the Customer Service Agreement, Service Description, Terms and Conditions and Operating Procedures.

B. Flat may increase its rates or make changes to its Customer Service Agreement, Service Description, Terms and Conditions and Operating Procedures 20 days after such changes are filed on a confidential basis with the Commission Staff and notice is provided to affected consumers.

C. Upon appropriate pleading, or upon its own motion, the Commission may investigate a proposed change to Flat's Customer Service Agreement, Service Description, Terms and Conditions and Operating Procedures, and Flat agrees to respond to requests for information from the Commission Staff. After notice to Flat and a

subsequent investigation, the Commission may find that the change is not consistent with Flat's ETC status or results in a universal service Lifeline offering that is not eligible for universal service Lifeline funding. Flat shall thereafter make such changes as are necessary to bring its offering into compliance with such requirements. The Parties agree that the Commission has authority to enforce compliance with this Stipulation and 4 CCR 723-2-2187 and, consistent with this Paragraph, may exercise its audit powers derived from Section 40-15-107, C.R.S. with respect to the basic universal service Lifeline offerings or the Company's ETC status.

11. The Parties agree that Flat shall comply with all FCC orders relating to wireless E911 service and shall notify Staff when milestones required by the FCC are met. In addition, Flat shall notice all Public Safety Answering Points ("PSAPs") in its Colorado designated service areas that it will be providing services, describe the services, and invite comments from PSAPs regarding the provision of E911 to Customers. Flat shall also notify PSAPs when it meets FCC required milestones related to wireless E911 in its service areas.

12. The Parties agree that Flat provides all its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements made by Flat with an interexchange carrier. In addition, customers shall be able to reach the interexchange carrier of their choice by dialing an appropriate access code obtained from such carrier. The Parties note that the FCC does not require one-plus equal access dialing to be among the services supported by universal service mechanisms and that Flat does not offer such access capability. Provision of one-plus equal access would require Flat to make significant hardware and software changes and arrange for different trunking



arrangements than it currently has available. The Parties agree that deferring to the FCC on any equal access dialing requirements is reasonable given the inability of Flat to provide such dialing at this time. The Parties agree that this approach should be held to satisfy 47 C.F.R. § 54.202(a)(5).

#### GENERAL PROVISIONS

13. Without waiving any of its positions stated in this case, Flat desires to end further uncertainty in litigation by entering this Stipulation. Accordingly, the Parties hereby agree to be bound to the terms of this Stipulation. The Parties recognize, however, that should the Commission or the FCC determine the particular regulatory treatment applicable to wireless ETC designees, in further rulemaking or otherwise, any such lawful and applicable determinations would apply to Flat. Notice of any such FCC or Commission determination shall be provided to the Staff.

14. This Stipulation is a settlement of disputed and compromised claims and accordingly, this Stipulation is made for settlement purposes only. No Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Stipulation. No precedential effect or other significance, except as may be necessary to enforce this Stipulation or a Commission order concerning this Stipulation, shall be attached to any principle or methodology contained in this Stipulation.

15. All witnesses of the Parties will support all aspects of the Stipulation and Settlement Agreement embodied in this document in any hearing conducted to determine whether the Commission should approve this Stipulation. Each Party also agrees that, except as expressly provided in this Stipulation, it will take no action in any



administrative or judicial proceeding, which would have the effect, directly or indirectly, of contravening the provisions of this Stipulation. Without prejudice to the foregoing, the Parties expressly reserve the right to advocate positions different from those stated in this Agreement in any proceeding other than one necessary to obtain approval of, or enforce this Stipulation or a Commission order approving this Stipulation. Nothing in this Stipulation shall constitute a waiver by any Party with respect to any matter not specifically addressed in this Stipulation.

16. This Stipulation shall not become effective until the Commission issues a final order approving the Stipulation, which order does not contain any modification of the terms and conditions of this Stipulation that is unacceptable to any of the Parties to the Stipulation, except as provided in Paragraph 15 above. In the event the Commission modifies this Stipulation in a manner unacceptable to any Party hereto, that Party may withdraw from the Stipulation and shall so notify the Commission and the other Parties to the Stipulation in writing within ten (10) days of the date of the Commission order. In the event a Party exercises its right to withdraw from the Stipulation, this Stipulation shall be null and void and of no effect in this or any other proceedings.

17. In the event this Agreement becomes null and void or in the event the Commission does not approve this Stipulation, this Stipulation, as well as the negotiation undertaken in conjunction with the Stipulation, shall not be admissible into evidence in these or any other proceedings.

18. The Parties state that they have reached this Stipulation by means of a negotiated process that is in the public interest, and that the results reflected in this Stipulation are just, reasonable and in the public interest. Approval by the Commission

of this Stipulation shall constitute a determination that the Stipulation represents a just, equitable, and reasonable resolution of all issues, which were or could have been contested by the Parties with respect to the Flat Application.

19. This Stipulation is an integrated agreement that may not be altered by the unilateral determination of any Party.

20. This Stipulation may be executed in separate counterparts, including facsimile. The counterparts taken together shall constitute the Stipulation and Settlement Agreement. The Parties represent that the signatories to the Stipulation have full authority to bind their respective parties to the terms of the Stipulation.

WHEREFORE, the Parties respectfully submit this Stipulation and Settlement Agreement for approval by the Commission and request that the Commission grant such approval.

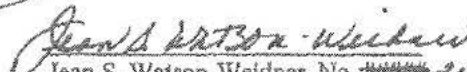
Dated this <sup>31</sup>~~31~~ day of January, 2011.

FOR THE STAFF OF THE  
COLORADO PUBLIC UTILITIES  
COMMISSION

APPROVED AS TO FORM:



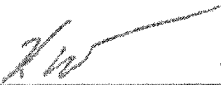
Patricia A. Parker  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, Colorado 80220  
Tele: 303-894-2905  
Fax: 303-894-2813



Jean S. Watson-Weidner, No. ~~21036~~ 21036  
Assistant Attorney General  
Office of the Colorado Attorney  
General  
1525 Sherman Street, 7th Floor  
Denver, Colorado 80203  
Tele: 303-866-5158  
Fax: 303-866-5395

FLAT WEST WIRELESS, LLC

BY: \_\_\_\_\_

  
Kevin Beierschmitt  
President/CEO  
5225 S Loop 289 Ste 128  
Lubbock, TX 79424  
Tele: 806-589-0668  
Fax: 877-918-5550

(Approved as to Form)



**HOLLAND & HART LLP**

By: 

Mark A. Davidson #10364  
555 Seventeenth St., Suite 3200  
Denver, CO 80202  
P. O. Box 8749  
Denver, CO 80201-8749  
303-295-8572 (Tel.)  
303-223-3283 (Fax)  
[madavidson@hollandhart.com](mailto:madavidson@hollandhart.com)

**ATTORNEYS FOR  
FLAT WEST WIRELESS LLC**

## LIST OF ATTACHMENTS

- Attachment 1: Non-Rural Wire Centers served by Qwest Corporation
- Attachment 2: Rural Wire Centers served by rural company
- Attachment 3: Terms and Conditions
- Attachment 4: Operating Procedures
- Attachment 5: Service Description

ATTACHMENT 1

NONRURAL WIRE CENTERS

WC Name	CLLI	Company
Clifton	CFTNCONM	Qwest



ATTACHMENT 2

RURAL ILEC STUDY AREAS ENTIRELY WITHIN  
ETC SERVICE AREA

WC Name	CLLI	Company
Eckert	ECKRCO	Delta County Telecommunications, Inc.
Hotchkiss	HTCHCO	Delta County Telecommunications, Inc.

ATTACHMENT 3

**FLAT WEST WIRELESS, LLC**

**LIFELINE UNIVERSAL SERVICE  
OFFERINGS**

**TERMS AND CONDITIONS**

ATTACHMENT 3

## **TERMS AND CONDITIONS OF SERVICE AGREEMENT**

**FLAT WEST WIRELESS, LLC**

**LIFELINE UNIVERSAL SERVICE OFFERINGS**

### **TERMS AND CONDITIONS**

Flat West Wireless, LLC's (the "Company or Flat") Lifeline Universal Service offerings meet all applicable state and federal requirements and are consistent with the purposes and intent of the Telecommunications Act of 1996, the implementing regulations of the Federal Communications Commission ("FCC"), and applicable rules and orders of the Public Utilities Commission of the State of Colorado (the "Commission"). The Company's Lifeline Universal Service shall be available only to qualified individuals and the offerings include, at a minimum, the following services required under 47 C.F.R. Section 54.101(a) and required under 4 CCR 723-2-2844: voice-grade access to the public switched telephone network; local usage; dual tone multi-frequency signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation for qualifying low-income consumers. The Company's Lifeline offering shall meet the requirements set forth in 47 C.F.R. Section 54.401, Subpart E. Additionally, the Company will evaluate the telecommunication needs of low-income consumers and may include additional services and features within its Lifeline Universal Service offerings.

This Service Agreement (the "Agreement") is made between the Company and the Customer and consists of the Customer Preference Page and these Terms and Conditions set forth herein, including all valid amendments hereto.

### **SECTION 1 - COMPANY RESPONSIBILITIES**

#### **1.1 Services -- General**

- 1.1.1 The Company provides wireless local and long distance telecommunications services to Customers for voice, data and other types of telecommunications capable of transmission over Company's cellular network. When using wireless local loop equipment at Customer's premises in accordance with Company's instructions, transmission will be at adequate volume levels and free of excessive distortion.
- 1.1.2 The Company provides cellular radio telecommunications services in accordance with applicable law and, for purposes of universal service, the Terms and Conditions set forth herein.



ATTACHMENT 3

- 1.1.3 The Company's local calling area may be different from the local calling area of the incumbent local exchange carrier and is set forth on the Customer Preference Page.
- 1.1.4 The Company's services are provided on a monthly basis, unless otherwise stated herein. Services are available twenty-four (24) hours per day, seven (7) days per week. Company will make reasonable arrangements to resolve emergencies resulting from failures of service, unusual and prolonged increases in traffic, illness of personnel, fire, storm or other acts of God, and inform its employees as to procedures to be followed in the event of such emergencies in order to prevent or minimize interruptions or impairment of telecommunications service.

**1.2 Service Offerings**

The Company offers local telecommunication services as well as long distance services. The Customer's use of the Company's service is charged at the applicable rates set forth on the Customer Preference Page.

The following services are available from the Company:

- 1.2.1 Access to Public Telephone Network and Local Usage  
The Company's service includes access to the public switched telephone network and local usage that allows Customer to originate and terminate calls within the local calling area described on the Customer Preference Page without incurring toll charges. Except as otherwise set forth on the Customer Preference Page, the service allows for unlimited local calling for a flat-rated monthly charge.
- 1.2.2 Access to Emergency Services  
The Customer can reach an emergency dispatch, or public safety answering point ("PSAP"), by dialing "911." Upon dialing "911", the Customer's emergency call will be routed to the appropriate PSAP. The Company will comply with any state 911/E911 obligations, including payment of fees into state 911/E911 funds.
- 1.2.3 Access to Long Distance Service  
The Company's long distance service is a switched long distance telephone service that allows for the origination of calls to be terminated outside of the local calling area. The calls will be billed as set forth on the Customer Preference Page. Access to other long distance service carriers is not available using 1-plus dialing but is available through the use of alternative carriers' toll-free access numbers that are obtainable from such alternative carriers directly. If a Customer accesses a specific long distance provider's service by dialing that carrier's access number, that call will be treated as a local call as set forth on the Customer Preference Page.
- 1.2.4 Access to Directory Assistance

ATTACHMENT 3

Directory assistance provides Customers with access to information contained in directory listings.

1.2.5 Access to Operator Services

Customer will have access to live or automatic operator assistance for the placement and billing of telephone calls, including collect calls, calling card calls, credit card calls, person-to-person calls, and third party calls, as well as obtaining related information.

1.2.6 Toll Limitation

Customer may choose to have Company block all attempted toll calls originating from Customer's phone. Upon verification of eligibility, this option can be exercised by making such an indication on the Customer Preference Page, or by making such a request to Customer Care.

1.2.7 Lifeline Services

Qualified low-income consumers are eligible to pay reduced monthly fees under the Federal Lifeline program. Customer may contact the Company for more information on eligibility criteria. Company does not offer reduced connection and/or activation fees under the Federal Link-Up program.

1.3 Customer Service Policies

1.3.1. General. Customer Care service personnel will be available, either directly or through an answering service, 24 hours per day, 7 days per week. Customer Care can be reached by dialing 611 on Company's network, or by dialing (877) 797-1696 from another network. A Customer can also speak with Company representatives located at its retail store outlets, who can provide information relating to services and rates, accept and process applications for service, explain charges on Customers' bills, adjust charges made in error, and generally act as the Company's representatives. Customers may also send written questions, complaints, or disputes to the Company at 5225 S Loop 289, Suite 128 Lubbock, TX 79424.

1.3.2. Complaints and Appeals. Customer Care service personnel will attempt to answer any questions a Customer has, and will strive to resolve complaints or disputes during the initial Customer call. The Company shall fully and promptly investigate and respond to all oral and written complaints made directly to the Company by its applicants or customers. The Company shall notify the Customer promptly of the results of its proposed disposition of the complaint after having made a good faith attempt to resolve the complaint. Upon request by the Customer, the Company shall inform the Customer in writing of its proposed disposition of the complaint. The Company shall direct its personnel engaged in initial contact with an applicant or Customer in which dissatisfaction with the decision or explanation by the personnel is expressed, to inform the Customer of the right to have the problem considered and acted upon by another consumer representative or supervisory personnel of the Company. If the applicant or Customer continues to express dissatisfaction after the supervisory personnel have addressed the problem, the Company shall further direct the



ATTACHMENT 3

supervisory personnel to provide the complainant with the name, address and the current local, or where applicable, the current toll free telephone number of the External Affairs Section of the Commission Staff to be contacted for further review of an unresolved problem. Upon receipt of a complaint, either orally or in writing, from the Commission or its staff on behalf of a Customer or applicant, the Company shall make a suitable investigation and advise the Commission or its staff of the results. The Company shall provide an initial oral or written response to the Commission or its staff within 10 working days after receipt of the complaint. If requested by the Commission or its staff, a written final response detailing the disposition of the complaint by the Company shall be provided to the External Affairs Section or to the Executive Director of the Commission as requested by the Commission or its staff.

- 1.3.3 Trial Period. When a customer initiates service, the Customer will be given a period of not less than 14 days to try out the service. The Company will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including airtime usage may still apply.
- 1.3.4 Certification. When a customer initiates service, the Customer must certify by his or her signature under penalty of perjury that he or she is head of household and that he or she will receive Lifeline supported services only from Flat.

1.4 Limitations of Service

- 1.4.1 Lifeline service is offered subject to the availability of facilities and the provisions contained herein. Lifeline service is not offered exclusively through roaming or resale of another carrier's service.
- 1.4.2 Service is furnished to the Customer for any lawful purpose. Service shall not be used for any unlawful purpose, nor used in such a manner as to interfere unreasonably with the use of service by any other users of Company's network.
- 1.4.3 The use of the Company's services without payment for service, or an attempt to avoid payment for service by fraudulent means or devices, false or invalid numbers, or false calling or credit cards is prohibited.
- 1.4.4 The use of the Company's services to make calls that might reasonably be expected to frighten, abuse, torment, or harass another person is prohibited.
- 1.4.5 Subscriber eligibility shall be established pursuant to a certification process whereby the head of a household will be required to certify, under penalty of perjury, that he or she satisfies one of the eligibility criteria (program-based or income-based) and will only be receiving Lifeline support from Flat.

1.5 Limitations of Liability

- 1.5.1 Because the Company has no control of the content of communications transmitted over its network, and because of the possibility of errors incident to

ATTACHMENT 3

the provision and use of its services, services furnished by the Company are subject to the terms, conditions and limitations specified herein.

- 1.5.2 The liability of the Company for errors in billing that result in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been disconnected, to a refund of the amount erroneously billed.
- 1.5.3 The Customer agrees, except where the events, incidents or eventualities set forth in this section are the result of the Company's gross negligence or willful misconduct, to release, indemnify and hold harmless the Company against any and all loss, claims, demands, suits or other action or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party or person, for any personal injury to or death of any person or persons, or for any loss of or damage to any property, whether owned by the Customer or others.
- 1.5.4 The Company assumes no responsibility for the availability or performance of any facilities under the control of other entities that are used to provide services to Customer.
- 1.5.5 With the exception of billing disputes, any claim against the Company shall be deemed waived unless presented to the Company within thirty (30) days after the date of the occurrence that gave rise to the claim.
- 1.5.6 The Company makes no express representations or warranties regarding the services or equipment provided, except as set forth herein, and disclaims any implied warranties, including, but not limited to, warranties of title or implied warranties of merchantability or fitness for a particular purpose. The Company does not authorize anyone to make a warranty of any kind on its behalf and Customer should not rely on any such warranty.

**1.6 Interruptions of Service**

**1.6.1 General**

- 1.6.1.1 Service is interrupted when it becomes unusable to the Customer or when the Customer is unable to transmit or receive calls due to the failure of a component of the network furnished by the Company under these Terms and Conditions.
- 1.6.1.2 An interruption period begins when the Customer reports, or the Company determines, a service, facility or circuit to be inoperative and the customer releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative.
- 1.6.1.3 If the Customer reports a service, facility or circuit to be inoperative but declines to release it for testing and repair, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances



ATTACHMENT 3

will be made for a service facility or circuit considered by the Company to be impaired.

1.6.2 Reestablishing Service

Company will make all reasonable efforts to prevent interruptions of service and, when interruptions do occur, reestablish service with the shortest possible delay. Company will make attempts to resolve emergencies at all hours, consistent with the bona fide needs of customers and the personal safety of Company's employees. In almost all cases, Company will be able to reestablish service within 24 hours. If unusual repairs are required, or other factors will prevent the prompt reestablishment of service, the Company will make reasonable efforts to contact Customer.

1.6.3 Network Maintenance

Service interruptions for an extended time due to maintenance requirements shall be done at a time that causes minimal inconvenience to customers. To the extent possible, customers shall be notified in advance by Plat of extended maintenance requirements and/or regularly scheduled maintenance.

1.6.4 Application of Credits for Interrupted Services

In the event a Customer's service is interrupted and remains out of order for 24 hours after being reported to the Company, adjustments will be made to Customer's monthly bill based on the pro rata part of any charge due and payable from Customer. A refund will be accomplished by a credit on a subsequent bill, or if service has been terminated, by refund check issued to Customer. If service is restored on or before the day after it is reported, no allowance will be made. No adjustments will be earned by accumulating non-continuous periods of interruption.

1.6.5 Limitations on Allowances

No credit allowance will be made for any interruption of service due to the failure of power, equipment, systems or services not provided by the Company; during any period in which the Company is not given full and free access to the Customer's or Company's facilities and equipment for the purpose of investigating and correcting the interruption; during any period in which the Customer continues to use the service on an impaired basis; during any period in which the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements; or that was not reported to the Company within thirty (30) days of the date that service was affected.

1.6.6 Record Keeping

Company will keep records of all Customer reports of interrupted service, including the time, date, and nature of the report, and action taken by the



ATTACHMENT 3

Company to clear the interruption, and the date and time that service was restored.

**1.7 Availability of Service-Adequacy of Facilities.**

The Company shall employ prudent management planning practices, including budgeting and prioritization of resource utilization, so that adequate equipment is in place to supply service to customers in its service areas in conformity with the service extension policy within a reasonable period of time.

- 1.7.1 The Date of the Application for Service. For purposes of this paragraph 1.7, the date of the first oral or written customer contact with the Company to request service, or, if the Company requires the payment of contributions in aid to construction, the date on which the Customer makes payment or partial payment of such charges as described in subparagraph 1.7.2. The Company shall specifically ask customers who contact the Company to inquire about service availability if the Customer desires to initiate, at that time, a request for service to be installed at some future date. The Company shall not discourage the Customer from placing an order at the time of such inquiry.
- 1.7.2 Construction Charge Estimate. If the Company requires the payment of contributions in aid to construction, (i.e., service extension charges) the Company shall provide to the Customer, within thirty (30) calendar days from the date of a Customer's request for an estimate, a good faith written cost estimate of the amount of the required payment. The payment or partial payment of such charges, when received by the Company, shall be notice to the Company that the Customer desires service and the payment date shall be considered the date of the application for service. The good faith written cost estimate shall inform the Customer that receipt of payment or partial payment is required before the Customer's request will be considered an application for service.
- 1.7.3 Notice to Customers. All customers who are not supplied service within five days of the date of the application for service will be given a written notice by the Company stating the number assigned by the Company to the application for service, the date of application for service, and all alternatives available to the Customer pursuant to this paragraph 1.7. This notice will be postmarked on or before the sixth business day after the date the Company receives the application for service. Unless basic universal service has been provided, the Customer will receive a second notice to be postmarked on or before the 31st calendar day after the date the Company receives the application for service. This renotification shall include: the expected service date, the reason for the delay, the number the Company has assigned to the application for service, the date of the application for service, and the postmarked date of the first notice. This renotification shall be mailed by certified-return-receipt mail. The Customer will also be provided with written renotification each time the expected date of service previously stated is delayed by more than ten days. Renotification is also required in the circumstances referenced in subparagraph 1.7.5. This renotification shall be mailed by certified-return-receipt mail. A copy of the Company's letter to the PUC Director (as specified in subparagraph 1.7.5) regarding a Customer's

ATTACHMENT 3

service application which has been held for 150 days shall be mailed to the Customer by certified-return-receipt mail.

1.7.4 Provision of Lifeline Basic Universal Service (LBUS)

1.7.4.1 Applicability. This subparagraph 1.7.4 shall apply to the provision of LBUS to Customers who make application for such service, and to Lifeline Customers whose applications for service are unfilled at the time of the effective date of this paragraph 1.7.

1.7.4.2 Time Frames for Provision of Service. The Company shall provide a Customer with LBUS no later than 150 working days from the date of the Customer's service application, except that when the Customer requests a later date of service, the service shall be provided by the requested date. Failure to provide LBUS service within the time set forth in this subparagraph 1.7.4.2 shall constitute a violation of this subparagraph 1.7.4.2. Each day for which LBUS is not provided to a Customer as set forth in this subparagraph 1.7.4.2 shall constitute a separate violation of this subparagraph 1.7.4.2.

1.7.4.3 Temporary Alternatives to Basic Local Exchange Service. This subparagraph 1.7.4.3 shall apply to requests for the first residential account at a residential premise. When the Company fails to provide basic universal service within 30 calendar days, the Customer automatically will receive a waiver of any and all activation charges for each eligible Lifeline basic universal service account and will credit to the Customer's account in an amount at least equal to the *pro rata* monthly Lifeline basic universal service charge for each day thereafter that service is not provided. Further, the Customer shall be entitled to choose either Option 1 or Option 2 as described below:

**Option 1)** Reimbursement of up to \$150 per month or any part of a month for alternative services, chosen by the Customer. (The Company may require verification of a Customer's subscription to an alternative service and the Company need only provide reimbursement in the amount of the actual alternative used up to the amount stated in this subparagraph);

**Option 2)** Alternative service offered by the Company, such as remote call forwarding. If an alternative form of service is provided, the Company is authorized to charge the Customer the rates for the alternative service, if such rates are less than the rate for basic universal service. Otherwise, the Customer will be charged the rate for basic universal service.

The Company will provide these temporary alternatives to Lifeline basic universal service to eligible customers, as described above, until the Company provides basic universal service.

ATTACHMENT 3

- 1.7.5 Notice to Commission. Under any circumstances where the period to provide service exceeds 150 days, the Company shall file a letter with the Director of the Commission stating the circumstances causing the delay, explaining whether such circumstances are beyond the Company's control, and providing an estimate of the time necessary to provide service. This letter shall include: the name and address of the applicant, the date of application for service, and the number assigned by the Company to the application for service.
- 1.7.6 Temporary Alternatives. The temporary alternatives to basic universal service described in subparagraph 1.7.4.3 shall be offered in addition to, and not in lieu of, any other remedy available to the Customer and the Commission, including, but not limited to:
- 1.7.6.1 An order by the Commission that the Company provide basic universal service on a date certain; or
  - 1.7.6.2 Removal of the Company's designation as an ETC by the Commission, either in whole or in part; or
  - 1.7.6.3 Penalties under state law and regulation.
- 1.7.7 Potential Facility Unavailability. The Company shall inform Customers of the potential of future facility unavailability when the Company is experiencing or is forecasting potential facility unavailability in specific areas. The Company shall allow Customers to suspend basic universal service temporarily (i.e. vacation service), and shall inform Customers of this option.
- 1.7.8 Access to 911 or E911. The Company will provide its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of minutes.
- 1.7.9 E-911 Compliant Handsets. The Company will provide its Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service as of the date it provides Lifeline service.
- 1.8 Changing Providers.
- 1.8.1 Definitions.
- 1.8.1.1 "End-Use Customer" or "End-User" means the ultimate consumer of a telecommunications service, or, a retail consumer of telecommunications services.
  - 1.8.1.2 "Slamming" means any change in an end-use customer's presubscription to a telecommunications service subject to the jurisdiction of the Commission that is made without appropriate consent of the Customer.
  - 1.8.1.3 "Toll reseller" means any person who provides toll services to end-use customers by using the transmission facilities, including without limitation wire, cable, optical fiber, or satellite or terrestrial radio signals, of another person. A toll reseller may, but need not, possess its own switching facilities.



ATTACHMENT 3

1.8.2 Verification of Orders for Service.

This rule applies to requests for changes in service provider initiated by the Company as well as requests initiated by the Customer. The Company shall not change the Customer's previous provider unless and until the Company has obtained confirmation from the Customer in accordance with one of the procedures listed below:

1.8.2.1 The Company has obtained the Customer's written authorization pursuant to the requirements of subparagraph 1.8.3 below; or

1.8.2.2 The Company has obtained the Customer's electronic authorization to change accounts or providers, placed from the telephone number(s) for which the Company is to be changed, and the authorization confirms the Customer's billing name and address, the decision to change to the Company, and the Customer's understanding of any change fee to confirm the authorization. If the Company elects to confirm sales electronically, it shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a Customer to a voice response unit, or similar mechanism that records the required information regarding the change in service provider, including automatically recording the originating number using Automatic Number Identification (ANI).

1.8.2.3 The Company will not provision the customer on the Lifeline program unless the Colorado Department of Human Services (CDHS) has notified the Company and has certified the customer is eligible for Lifeline.

1.8.2.4 Colorado Department of Human Services (CDHS) has obtained the Customer's authorization to submit the provider/carrier order that confirms and includes appropriate verification data (e.g., the Customer's date of birth or social security number).

1.8.2.5 Within three business days of the Customer's oral request for a change in service provider, the Company must send each new Customer an information package by first class mail. The information packet shall contain at least the following information concerning the requested change:

1.8.2.5.1 A statement that application does not constitute immediate approval for the Flat Lifeline Credit. It may take up to 60 days for the credit to appear on my account.

1.8.2.5.2 A statement that CDHS has confirmed eligibility for Lifeline service;

1.8.2.5.3 The name of the Customer's current service provider;

1.8.2.5.4 The name of the newly requested service provider;

ATTACHMENT 3

- 1.8.2.5.5 A description of any terms, conditions, or charges that will be incurred;
- 1.8.2.5.6 The name of the person ordering the change;
- 1.8.2.5.7 The names, addresses, and telephone number of both the Customer and the soliciting service provider;
- 1.8.2.5.8 A postpaid postcard that the Customer can use to deny, cancel, or confirm a service order;
- 1.8.2.5.9 1.8.2.5.9 A clear statement that Lifeline discount is only available for one residential phone line per household (either wireline or wireless but not both);
- 1.8.2.5.10 A clear statement that the Customer will verify continued eligibility and that failure to do so will result in termination of the Flat Lifeline Credit benefits; and,
- 1.8.2.5.11 The name, address, and telephone number of a contact point at the Commission for consumer complaints.

1.8.3 Letter of Agency Form and Content

- 1.8.3.1 The Company shall obtain any necessary written authorization from a Customer for a change in service provider by using a letter of agency as specified in this subparagraph 1.8.3. Any letter of agency that does not conform to this subparagraph 1.8.3 is void.
- 1.8.3.2 The letter of agency shall be a separate or severable document (an easily separable document containing only the authorizing language described below) the sole purpose of which is to authorize a change in service provider. The letter of agency must be signed and dated by the Customer requesting the change in service provider.
- 1.8.3.3 At a minimum, the letter of agency must be printed in a sufficiently sized and readable type to be clearly legible to persons with normal and monochrome vision, and must contain clear and unambiguous language that confirms:
  - 1.8.3.3.1 The Customer's billing name and address and each telephone number to be covered by the change in service provider;
  - 1.8.3.3.2 The decision to change the from the current service provider to the prospective service provider;
  - 1.8.3.3.3 That the Customer designates the new service provider to act as the Customer's agent for the respective change of service;
  - 1.8.3.3.4 That the Customer understands that currently only one service provider may be designated as the Customer's service provider for any one telephone number (e.g., there may be a service provider for local service and a different service provider for toll or other service). When, pursuant to future Commission order, the number or types of services an end-use customer can designate as a service provider



ATTACHMENT 3

expands, the letter of agency must contain separate statements regarding each choice of service selection (i.e., service provider for which the letter of agency is authorizing a designation). Any service provider designated as a preferred service provider must be the service provider directly setting the rates for the Customer. One service provider can be a Customer's interstate preferred interexchange carrier, preferred intrastate carrier, and a Customer's service provider for local service; and

- 1.8.3.3.5 That the Customer understands that any service provider selection the Customer chooses may involve a charge to the Customer for changing the Customer's service provider.

**SECTION 2 - CUSTOMER RESPONSIBILITIES**

- 2.1 The Customer is responsible for placing any necessary orders, complying with the terms and conditions specified herein and assuring that all users of the services provided by Company comply with the same. The Customer shall ensure compliance with any applicable laws, regulations, orders or other requirements of any governmental entity relating to services provided by the Company to the Customer or made available by the Customer to another user. The Customer also is responsible for the payment of charges for all calls originated at the Customer's telephone number which are not collect, third party, calling card, or credit card calls.
- 2.2 The Customer is responsible for charges incurred for special construction and/or special facilities, which the Customer requests and which are ordered by the Company on the Customer's behalf, except as noted on the Customer Preference Page.
- 2.3 If required for the provisioning of the Company's services, the Customer must provide the Company, free of charge, with any necessary equipment space, supporting structure, conduit and electrical power.
- 2.4 The Customer is responsible for arranging access to its premises at times mutually agreeable to the Company and the Customer when required for Company personnel to install, repair, maintain, program, inspect or remove equipment associated with the provision of the Company's services.
- 2.5 The Customer must pay the Company for replacement or repair of damage to the Company's equipment or facilities caused by negligent or improper use on the part of the Customer or others.
- 2.6 The Customer indemnifies the Company for the theft of any Company equipment or facilities installed at the Customer's premises.
- 2.7 The Customer certifies that he or she is head of household and that he or she will only receive Lifeline supported service from Flat.
- 2.8 The Customer is responsible of notifying Flat if they are no longer eligible for the Lifeline service.

ATTACHMENT 3

**SECTION 3 - TERMINATION OF SERVICE**

- 3.1 **Customer Termination.** Customer may terminate service, with or without cause, by giving the Company three days' notice. Service will be disconnected on the requested termination day, and Customer will not be responsible for services rendered after that day.
- 3.2 **Disconnection Without Notice.** The Company may not deny or discontinue service to a Customer without prior written notice except for the following reasons:
- 3.2.1 If a condition immediately dangerous or hazardous to life, physical safety, or property exists; or
  - 3.2.2 Upon order by any court, the Commission, or any other duly authorized public authority; or
  - 3.2.3 If service was obtained fraudulently or without the authorization of the provider or is being used for, or suspected of being used for, fraudulent purposes.
- 3.3 **Disconnection With Notice.** The Company may suspend or discontinue service without suspension or, following suspension of service, sever the connection and remove any of its equipment from the Customer's premises in the service area after prior written notice only for one of the following reasons:
- 3.3.1 Non-payment of any past due bill for a universal service offering. The due date shown on the bill must be at least 10 days after the date of the bill issuance or five days after the date of mailing whichever is later. Solely for the purposes of this paragraph 3.3, a bill is past due if not paid within 30 days of the due date.
  - 3.3.2 Obtaining service by subterfuge that includes, but is not restricted to, an application for service at a location in the name of another party by a Customer whose account is delinquent or who is not eligible for Lifeline and who continues to reside at the premises.
  - 3.3.3 Violation of any rule of the Company which may adversely affect the safety of the Customer or other persons or the integrity of the Company's service.
  - 3.3.4 Failure to comply with municipal ordinances or other laws pertaining to telecommunications service which may adversely affect the safety of the Customer or other persons or the integrity of the Company's service.
  - 3.3.5 Failure of the Customer to permit the Company reasonable access to its facilities or equipment.
  - 3.3.6 If Flat disconnects service to Lifeline Customer for any reasons stated above, the Company will cease seeking reimbursement from the Lifeline universal service fund for that customer.



ATTACHMENT 3

- 3.3.7 If Flat Lifeline customer does not prepay for service, their service will be deactivated and Flat will cease seeking reimbursement from the Lifeline universal service fund for that customer.

3.4 Restriction on Denial or Discontinuation of Service.

- 3.4.1 Service cannot be denied or discontinued for delinquency or nonpayment of charges for service unless the Customer has been issued a bill for the charges consistent with the billing requirements under this Agreement and the Operating Procedures filed with the Commission.
- 3.4.2 Delinquency in payment for service rendered to a previous occupant of the premises to be served, unpaid charges for services or facilities not ordered by the present or prospective customer, or failure to pay directory advertising charges or any other indebtedness except as incurred for service rendered by the Company for universal service offerings shall not constitute a sufficient cause for refusal or termination of jurisdictional service to a present or prospective customer. However, consistent with the provisions of this section 3, services may be denied or discontinued when the provider can reasonably demonstrate it is being used to obtain unauthorized access to services offered by the Company.
- 3.4.3 The Company may not use its purchase of a Customer's indebtedness, i.e. the accounts receivable, from another telecommunications service provider as a basis for requiring monetary interest from or a deposit by that Customer or to deny or discontinue providing its jurisdictional services to that Customer. Nothing in this subparagraph 3.4.3 shall preclude the Company from requiring a deposit pursuant to the Company's customer deposit procedures.
- 3.4.4 If the Customer continues to pay all current bills, which is defined for the purpose of this subparagraph 3.4.4 as that portion of the amount owed by the Customer for services that is not more than 30 days overdue, the Company shall not discontinue service for non-payment of a past due amount for services when the Customer has entered into an amortization agreement with the Company. Payments for current bills shall first be credited by the Company to universal service offerings. Past due amounts collected under the amortization schedule shall first be applied by the Company to eliminating any over-due payments for universal service offerings. A reasonable period for amortization of past due amounts shall be six months for residential and three months for commercial Customers. Amortization is not appropriate unless the past due amount of the Customer is greater than twice the average monthly bill for the class of service to which the Customer belongs over the last six months for the use of services provided by the Company. Partial payments for current bills or for past due amounts shall first be credited to universal service offerings, unless otherwise instructed by the Customer.
- 3.4.5 In addition to the authority to disconnect without notice for fraudulent purposes under subparagraph 3.2.3, and notwithstanding the foregoing provisions of 3.3 and 3.4.4, the Company may disconnect long distance service to a Customer upon not less than seven days written notice, consistent with the remaining provisions of this section, if the Company has substantial reasonable grounds to

ATTACHMENT 3

believe, and it is prepared to reasonably demonstrate, that payment from the Customer for long distance is in jeopardy.

- 3.4.6 Unless requested by the Customer, the Company shall disconnect service only during the normal business hours of the Company's business or customer service offices. There shall be no disconnection of service from 12 noon on any day when the business or customer service offices of the Company will not be open the following day after said disconnection, and in such a circumstance, that the Company will forego disconnecting said customer service until 8:00 a.m. on the next day that the Company's business or customer service offices are open for a full business day.
- 3.4.7 The Company shall postpone discontinuance of universal service to a residential Customer for 30 days from the date of a certificate by a licensed physician which states that discontinuance of service will aggravate an existing medical emergency or create a medical emergency for the Customer, a member of his or her family, or other permanent resident on the premises where service is rendered. This postponement may be limited to 60 days within a continuous 12 month period or a lesser period agreed upon by the Company and the Customer or physician. This notice or certificate of medical emergency must be in writing and show clearly the name of the person whose illness would be exacerbated by discontinuance of service, and the name, title, and signature of the person giving notice of or certifying the medical emergency.

3.5 Notice to Customers

- 3.5.1 The Customer shall be notified in writing of the Company's intention to discontinue Lifeline services due to the Lifeline customer no longer meeting the qualification criteria. The notice shall clearly state that the customer contact CDHS registration system to verify eligibility. The customer will have 60 days from the date of the letter to provide Flat proof of continued eligibility.

SECTION 4 - RATES AND CHARGES

4.1 Payment of Charges

- 4.1.1 The Customer is responsible for payment of all charges for service furnished to the Customer, and for all charges incurred to the Customer's telephone number regardless of which party terminates the service.
- 4.1.2 The Company will provide bills or receipt for pay in advance plans to Customer that are typed or machine-printed, and which contain an itemized listing of all charges and the period of time covered by the billing.
- 4.1.3 The Company reserves the right to assess late payment charges for a Customer whose account(s) carries principal owing from the prior billing period. Any charges not paid in full within 15 days after the due date indicated on the billing statement may be subject to a late fee of 1.0% of the total of the bill.



ATTACHMENT 3

- 4.1.4 Recurring monthly charges may be invoiced one month in advance. Invoicing cycles are approximately 30 days in length. Customer will have at least 20 days from the bill date to pay the new balance.
- 4.1.5 Customers must notify the Company either verbally or in writing of any disputed charges, otherwise all charges on the invoice will be deemed accepted. All charges remain due and payable at the due date, although a Customer is not required to pay any disputed charges during the time period in which the Company conducts its investigation into the matter. If after such investigation, Company determines amounts to be due, those amounts are immediately due and payable.

4.2 Deposits

The Company may collect a deposit if toll limitation services are unavailable. Customer deposits will not be based upon income, home ownership, residential location, employment tenure, nature of occupation, race, color, creed, sex, marital status, age, national origin, or any other criteria that does not bear a reasonable relationship to the assurance of payment. Interest will be paid on all Customer deposits at the Commission-approved rate. If, (a) the Customer purchases the equipment, or (b) during the lease term, the Customer terminates service, the Company will return any deposit, plus interest, to the last address provided by Customer, within 45 days. The Company reserves the right to apply any deposit to any charges then past due.

4.3 Contested Charges

All bills are presumed accurate and shall be binding on the Customer unless the Company receives objection. In the event that a billing dispute between the Customer and the Company for service furnished to the Customer cannot be settled with mutual satisfaction, the Customer may request, and the Company will provide, an in-depth review of the disputed amount. The undisputed portion of any bill and any subsequent bills must be paid on a timely basis or the service may be subject to disconnect. If it is determined that any amount previously paid was incorrectly billed, Company will reduce Customer's subsequent bill accordingly, or, at the request of the Customer, will issue a refund.

4.4 Taxes

State and local sales, use and similar taxes and governmental assessments, including gross receipts taxes, are billed as separate items and are not included in the quoted rates for telecommunications services listed on the Customer Preference Page.

4.5 Start of Billing

For billing purposes, the start of service is the day shown on the Customer Preference Page, or the day following acceptance by the Customer of the Company's service or equipment. The end of service date is the last day of the minimum notification of cancellation, or any portion of the last day after receipt by the Company of notification of cancellation as described in paragraphs 3.1 through 3.4 of this Agreement.



ATTACHMENT 3

4.6 Promotions

From time to time, the Company may offer services or waive or vary service rates for promotional, market research or other similar business purposes.

4.7 Insufficient Funds Charge

If payment for services is made by a check, draft, or similar instrument (collectively "Check") that is returned to the Company unpaid by a bank or another financial institution for any reason, the Company will bill the Customer a \$20.00 service charge. In addition, the Customer may be required to replace the returned Check with a payment in cash or equivalent to cash, such as cashier's check, certified check or money order.

4.8 Reconnect Charge

Customers pay in advance for their service. Customers who do not pay in advance will have their service suspended. Service will be restored once payment is made. Company will not charge a fee to defray the cost of restoring service to the Customer.

4.9 Discounts for Hearing and Speech Impaired Customers

Directory Assistance services for hearing or speech impaired Customers are provided by the Company or a designated carrier. No charge shall be assessed upon any person who suffers from a physical or visual impairment that precludes such a person from using a telephone directory.

4.10 Billing

All monthly bills issued or prepayments received by the Company, which include charges for Lifeline universal service offerings, shall contain an itemization of charges for the following services and shall include, when applicable, but not be limited to:

- 4.10.1 basic universal service as requested by the Customer;
- 4.10.2 charges for excess or additional minutes;
- 4.10.3 per-minute roaming or off-network charges, if applicable;
- 4.10.4 any activation or initiation fees;
- 4.10.5 any early termination fees that apply;
- 4.10.6 other services separately stated, which shall include a listing of any deposit and the interest returned to a Customer under the provisions of this Agreement and the Operating Procedures;
- 4.10.7 an itemization of all long distance calls charged to the account including, but not limited to, the date and time of the call, the length of the call in minutes, the destination of the call, or point of origin for collect and third party calls and the rate period applicable (i.e., day or peak rate discount/evening and night/economy or supersaver rate);
- 4.10.8 the telephone number of the Company's business office;
- 4.10.9 notification of when payment is due;
- 4.10.10 local, state and federal taxes;

ATTACHMENT 3

- 4.10.11 segregation of any non-universal service charges for service or equipment from those for universal service with these charges being labeled as non-universal service charges; and
- 4.10.12 the Lifeline credit.

Concurrent with the preceding itemization requirements, all optional services shall be identified as optional. Solely for the purpose of this paragraph 4.10, an optional service is one that is not necessary to obtain basic universal service. Also, charges levied by other governmental bodies, such as the Federal Communications Commission, on basic universal service are not to be classified as optional charges within the intent of this paragraph 4.10.

**SECTION 5 - ADDITIONAL TERMS**

**5.1 Amendment of this Agreement**

Company will provide Customer with 14 days' written notice of any amendments to this Agreement. By use of the service on or after the effective date of the Amendment, Customer acknowledges acceptance of all such amendments. Customer may add or delete services reflected on the Customer Preference Page by giving the Company verbal or written notice of the intent to do so.

**5.2 Assignment**

Customer may not sell, assign, or transfer rights and obligations contained in this Agreement without the consent of the Company, which may be withheld at its sole discretion.

**5.3 Notices**

All written notices required or allowed under this Agreement shall be given to Company at the following address:

FLAT WEST WIRELESS, LLC  
5225 S Loop 289, Suite 128  
Lubbock, TX 79424

All written notices required or allowed under this Agreement shall be given to Customer at the billing address listed on the Customer Preference Page.

**5.4 Entire Agreement**

This Agreement contains the entire Agreement between Company and Customer and supercedes and cancels all prior understandings, agreements, contracts or arrangements between them concerning the subject matter hereof. No statements or representations not included herein shall be binding upon the parties.

**5.5 Governing Law**

ATTACHMENT 3

This Agreement shall be governed by applicable federal law, the regulations of the FCC, and the laws of the State of Colorado.

5.6 Waiver

Failure by either party to strictly enforce any provision of this Agreement shall not be construed as a waiver thereof, or as excusing the other party from future performance.

5.7 Savings Clause

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, such provision shall be deemed not to be a part of this Agreement, except in the case of a state or local prohibition, in which event it shall be eliminated only for such state or locality, but no such elimination shall invalidate any other provision.

ATTACHMENT 4

**Operating Procedures Applicable to Lifeline BUS Offering Flat  
West Wireless, LLC**

**A. LOCATION OF RECORDS.**

Unless otherwise authorized by the Commission, all records required by these procedures pertaining to Flat's Lifeline Basic Universal Service (LBUS) offering shall be made available to the Commission or its authorized representatives at any time upon request.

**B. RETENTION OF RECORDS.**

Unless otherwise authorized by the Commission, all records required by these procedures pertaining to Flat's LBUS offering shall be preserved for the period of time specified by Rule 4 CCR 723-2-2005 of the Rules Regulating Telecommunications Providers, Services, and Products, but in no event less than a minimum of 24 months after the date of entry of the record if the retention length is not specifically noted in Rule 4-CCR-723-2-2005.

**C. SERVICE AREA MAPS.**

Flat shall have on file with the Commission a map of each of its designated service areas within the state of Colorado. Each map shall show clearly the boundary lines of the area in which Flat has been designated as an ETC. Boundary lines shall be located by appropriate measurement to an identifiable location where that portion of the boundary line is not otherwise located on section lines, waterways, railroads, roads, etc. Maps generally shall contain detail as shown on county highway maps. The map scale and other sufficient detail shall be shown to permit the location of designated service area boundaries in the field.

**D. RECORDS OF COMPLAINTS**

Flat shall maintain an accurate record of all oral and written complaints made by its customers regarding its service, or rates and charges. This record shall include the name and address of the customer or complainant, the time, date and nature of the complaint, the action taken to clear trouble, and the date and time of trouble clearance.

The record of complaints shall be categorized to indicate to Flat and to the Commission whether any particular customer encounters the same difficulties frequently, in terms of complaints per month, including customer trouble reports, whether a large number or percentage of all complaints from different customers arise from the same irregularity in service, with five percent or more of all complaints over a three month period being considered significant, or whether some phase of the construction, equipment, maintenance or operation are causing the complaints.

**E. MAINTENANCE AND OPERATIONS RECORDS**

Records of various tests and inspections, to include non-routine corrective maintenance actions or monthly traffic analysis summaries for network administration, necessary for the purposes of Flat or to fulfill the requirements of these procedures shall be kept on file in the office of Flat as required under Procedures A and B of these procedures. Corrective maintenance records shall show the equipment or facility, such as metering

ATTACHMENT 4

and recording equipment, that was tested or inspected. The records shall also include the reason for the test, the general conditions under which the test was made, the results of the test, and the corrections made.

F. SERVICE EXTENSION POLICY.

Flat shall maintain policies on file with the Commission which state the conditions and circumstances under which extensions of service by Flat or by other entities under contract to Flat will be made in order to render service to prospective end-use customers within the designated service area. The applicability of Flat's service extension policy shall not unduly discriminate among Flat's prospective end-use customers by class of service. The policies shall include schedules of charges for service connections and extensions. Flat shall not serve eligible Lifeline customers in the portions of those wire centers beyond its facilities based service area with a combination of its own facilities and resale of another carrier's service.

G. HELD SERVICE APPLICATIONS

1. During periods of time when Flat may not be able to supply service to customers in Flat's service areas within the time frames established in these procedures, Flat shall keep a record for each service area showing the name and address of each applicant for service, the date of application, the class type and grade of service applied for, (e.g., first line or additional line), together with the reason for the delay in providing the service to the applicant, and the expected date of service.
2. When the number of held service orders exceeds 50 orders in a service area providing service to 2,000 or more customers, or 20 held service orders in a service area serving fewer than 2,000 customers, Flat shall maintain a summary of applications for each affected service area showing the total number categorized by various causes for delay and by dates of application.
3. Flat shall, within five (5) working days submit to the Commission a report showing the information required by paragraph 1 of this procedure, and the number of days service has been delayed, when the lesser of 50 or 5 percent of the total number of service applications in a service area in a consecutive three-month period are held service orders. Flat shall further submit, within 14 calendar days, a report of its proposed action to reduce the number of those held service orders to fewer than the lesser of 50 or five percent of the total number of service applications in that service area.

H. SERVICE INTERRUPTIONS

Flat shall keep a record showing all interruptions affecting service in an entire service area or any major portion of it that affects the lesser of 25 percent or 1,000 of the service area's customers for one or more hours during the day. This record shall show the date, time, duration, extent and cause of the interruption.

I. MAINTENANCE PRACTICES

Flat shall adopt a program of periodic tests, inspections and preventative maintenance aimed at achieving efficient operation of its system to permit at all times the rendering of safe, adequate and continuous service as recognized by general practices within the telecommunications industry. The presence of inductive interference, cut-offs,



ATTACHMENT 4

intelligible cross-talk and excessive noise generation by communication system facilities during the provision of telecommunications services by Flat are symptomatic of inadequate service, and a maintenance program should be designed to minimize or prevent those occurrences. The provider shall maintain its system to meet the applicable service adequacy standards defined in these procedures.

Records of various tests and inspections necessary to meet service standards of the industry in general or those contained in these procedures shall be kept on file in the office of Flat for review by the Commission. These records shall show the nature of the equipment tested, the reason for the test, the general conditions under which the test was made, the general result of the test and the corrections made.

J. SERVICE DURING MAINTENANCE OR EMERGENCIES

1. Flat shall make reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in traffic, illness of operators, or from fire, storm, or acts of God, and shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruptions or impairment of telecommunications service.
2. Each switch, microwave radio site, and other network facility requiring power of Flat shall contain a minimum of four hours of battery reserve (or backup power) rated for peak traffic load requirements. If the facility is not continuously attended by trained personnel, or does not contain a permanent auxiliary power unit, additional battery reserve shall be installed to provide for travel time. Travel time is the time from personnel call-out through arrival at the facility.
  - a. In a switch with capacity for more than 10,000 customers, a permanent auxiliary power unit shall be installed. If the auxiliary power unit requires manual-start and transfer then one hour additional battery reserve shall be installed.
  - b. In a switch serving fewer than 10,000 customers, microwave radio sites, and other network facilities requiring power, a mobile power source shall be available which can be delivered and connected. Additional battery reserve capacity beyond the four-hour minimum shall be installed by Flat at these locations based on the consideration of the following local conditions:
    - i. reasonable travel time (the time from personnel call-out through arrival at the facility);
    - ii. time for procuring and transporting the portable engine to the site, placing it in position, and connecting it to the load;
    - iii. number of sites serviced by one engine (commercial power failures may simultaneously affect more than one facility); and
    - iv. frequency and duration of past commercial power failures.
3. Service interruptions for an extended time due to maintenance requirements shall be done at a time that causes minimal inconvenience to customers. To the extent possible, customers shall be notified in advance by Flat of extended maintenance requirements. Emergency service should be made available in an area that experiences a service interruption affecting 1,000 or more customers which may last for more than four hours during the hours of 8:00 a.m. to 10:00 p.m. based upon the prior experience of Flat. If Flat cannot provide emergency service it shall file a report of the occurrence with the Commission.

ATTACHMENT 4

4. Flat shall develop a general contingency plan to prevent or minimize any service interruptions due to the catastrophic loss of a switch that serves more than 10,000 customers. The plan shall describe the actions and systems installed to prevent or minimize the probability of such an occurrence as well as describe the actions and systems available to minimize the extent of any incurred service interruption.

K. ADEQUACY OF SERVICE.

1. Flat shall employ prudent management and engineering practices so that sufficient equipment and adequate personnel are available at all times, including the average busy hour of the busy season. To meet this objective, Flat shall conduct traffic studies, employ reasonable procedures for forecasting future service demand and maintain the records necessary to demonstrate to the Commission that sufficient equipment is in use and that an adequate operating force is provided.
2. The criteria for quality of service established within these procedures define a minimal acceptable standard for the most basic elements of telecommunications service. The procedures do not attempt to define all criteria for all service applications nor the most desirable service level for any basic element except for the minimal acceptable standard. In the event a specific service element is not covered by these rules, Flat will be expected to meet generally accepted industry standards for that element and the total service. Organizations that are recognized for establishing standards that may be appropriate for telecommunications services provided in this state include the IEEE, ANSI, and the Federal Communications Commission (FCC).
3. Flat shall make regular periodic measurements to determine the level of service for each item included in these procedures. These records shall be available for review by the Commission upon request.
4. The standards within these procedures establish the minimum acceptable quality of service under normal operating conditions. They do not establish a level of performance to be achieved during the periods of emergency, catastrophic, natural disaster, severe storm or other events affecting large numbers of customers nor shall they apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage, civil unrest, or other events for which a provider may not have been expected to accommodate. To the extent such conditions affect the measurement records required under this Adequacy of Service procedure and consequently the ability of Flat to meet any other standards within these procedures, it is the responsibility of Flat to separately document the duration and magnitude or effect of such occurrences in its records.

L. ADVERTISING

At or before the time its LBUS plan becomes effective, Flat shall submit, on a confidential basis, proposed customer advertising materials and the list of zip codes that the marketing material are mailed to the Commission Staff and the Office of Consumer Counsel ("OCC") for information purposes. Flat shall maintain a description of its LBUS offering on its website. Flat shall submit annual reports describing advertising materials in use in Colorado to the Commission Staff and OCC.

ATTACHMENT 4

M. CONSTRUCTION OF FACILITIES

While nothing in this procedure shall impose on Flat an unreasonable obligation to construct facilities or relieve Flat of any reasonable obligation to construct facilities otherwise provided for by applicable law or Commission directive, to the extent facilities are constructed, they shall comply with all requirements contained in these procedures.

N. NETWORK CALL COMPLETION REQUIREMENTS

1. Direct Dialed Calls.

- a. Flat shall maintain sufficient switch and backhaul capacity, plus other necessary facilities to meet the following minimum requirements during any normal busy hour:
  - i. Dial tone within three seconds for 98 percent of call attempts on the switched network.
  - ii. Correct termination of 98 percent of properly dialed calls within a local calling area routed entirely over Flat's network.
  - iii. Correct termination of 98 percent of all properly dialed calls originating on another carriers network.
- b. A properly dialed call shall be considered terminated in the following circumstances:
  - i. The calling party receives an indication of ringing and a ringing signal is delivered to the location of the called party. If the called party answers, a connection is established between the calling and called parties.
  - ii. If the called number is busy, the calling party receives a busy signal.
  - iii. If a connection cannot be established between the calling and called parties, the calling party will receive an announcement or an appropriate overflow signal which is different than a called party busy signal. A call is not considered to be correctly terminated when this condition exists.
  - iv. A call to a non-working code or inoperative customer number is directed to the intercept service of Flat.

2. Operator Assisted Calls.

- a. All communications between customers must be considered as confidential in nature. Flat shall take reasonable action to minimize the potential access of other entities to those communications. Operators or employees of Flat must not listen to any conversation between customers, except in the case of an operating necessity. Operators shall not repeat or divulge the nature of any local or long distance conversation, nor divulge any information inadvertently overheard. Flat will be held responsible for strict compliance with this rule by their employees or other entities that perform this service for Flat.
- b. Suitable rules and instructions shall be adopted by Flat and followed by employees or other entities employed by Flat governing the language and operating methods to be used by operators during assistance to customers. Specifically, operators must be instructed to be courteous, considerate, and efficient in the handling of all customer calls. Any required call timing for



ATTACHMENT 4

operator assisted calls shall accurately record when the customer requested connection is established and when it is terminated.

- c. Each carrier offering operator assistance to the public shall provide a service that can answer 85 percent of directory, intercept, toll and local assistance calls within 10 seconds.
- d. Other calls directed to the published telephone numbers for service repair or the business offices of Flat shall be acknowledged within 20 seconds and shall be answered by either a carrier representative or a voice-response or mechanized unit menu within 60 seconds (as measured from the same starting point in time as for the 20 second acknowledgement standard) for 85 percent of all such calls during any monthly period. Each business day during any month for which the standard was not obtained for the published telephone number associated with the respective service center or business office shall be deemed a separate violation of this procedure. When fewer than 85 percent of such calls are answered in any month for any service center or business office, a written report listing each offending service center or business office will be submitted to the Commission within thirty-one (31) calendar days from the end of the month in which the standard was not met. For each violation listed, the report shall identify the percent of calls answered, the reason for failure to meet the 85 percent standard, the remedial action Flat has taken, and any known results of that remedial action.
- e. The measurement records for determining the minimum acceptable call completion criteria described under this procedure may be adjusted, as allowed under paragraph 4 of the Adequacy of Service procedure herein, for the circumstances specifically described within that paragraph.
- f. An answer shall mean that either a company representative or a voice-response or mechanized unit menu is ready to assist the customer or accept information necessary to process the call. An acknowledgement that the customer is waiting on the line shall not constitute an answer. A dropped call shall not be considered an answer. An answer shall not mean either directing the call to a company representative or mechanized system incapable of providing assistance to the customer or directing the call to a system that will only take a message from the customer.

3. Intra-LATA Interexchange Toll Dialing Pattern.

- a. Flat complies with all NANP dialing pattern requirements.

O. TROUBLE REPORT RESPONSE

- 1. Maximum Acceptable Number of Reports. Flat shall maintain its network so as to minimize customer trouble reports for services in an economical manner, but shall not exceed eight reports per 100 customers per month per service area averaged over a three-month period. An occurrence of a violation of this procedure shall be considered as each day in the month for which the three month average of trouble reports for that month and the preceding two months exceed this criteria for the service area in question.
- 2. Allowable Response Time. The response of a carrier to customer trouble reports shall be such that the 85 percent of all out-of-service reports for each month, for



ATTACHMENT 4

each service area, are cleared within 24 hours for each month. A separate occurrence of a violation of this procedure shall be considered as each day of each month for which the criteria was not met in each service area served by Flat.

When fewer than 85 percent of trouble reports for any month for any service area are not cleared within 24 hours, a written report listing each offending service area will be submitted to the Commission within thirty-one (31) calendar days from the end of the month in which the standard is not met. For each violation listed, the report shall identify the percent of trouble reports cleared within 24 hours, the reason for falling below the standard, the remedial action Flat has taken, and the date the service area is expected to meet or exceed the standard.

This criterion excludes the following conditions to the extent Flat can separately document the number of such occurrences:

- a. Reports for non-basic services or services of another provider.
- b. Situations where access to the customer's premise is required but not available.

3. Measurement Records. The measurement records for determining the maximum acceptable number of reports under this procedure, or the allowable response time under this procedure, may be adjusted as allowed under paragraph 4 of the Adequacy of Service procedure, for the circumstances specifically described within such paragraph 4 of the Adequacy of Service procedure.
4. Response Priority. If requested by the customer, Flat shall give priority to and initiate repairs regardless of the hour for customer trouble reports which may affect the public health and safety.
5. Customer Notification. If employees of Flat cannot clear the reported trouble promptly, the customer will be given a reasonable estimate of when the trouble report will be cleared.

P. EXPENSE OF ADJUSTMENTS

A carrier shall specifically identify all expenses incurred in providing bill credits, installation fee waivers and alternative service in compliance with these procedures. Such expenses shall be specifically identified by category of service, revenues foregone or credited, the duration of service and by all other information necessary for the Commission to track such expenses.

Q. REPORTING REQUIREMENTS

Company shall file the following reports with the Director of the Public Utilities Commission for information purposes only:

1. Copies of filings submitted to Federal Communications Commission or Universal Service Administrator Company (USAC). The Company shall file copies of FCC form 497 submitted to the FCC or USAC filed quarterly on a monthly basis.
2. Annual ETC Certification. Company will file annual certification data including the number of Lifeline customers and the amount the Company received for Lifeline

ATTACHMENT 4

support from the Lifeline program for the previous calendar year. The information shall be submitted on a Commission-approved form.

3. Monthly Reconciliation Form. Company will file a summary of the monthly reconciliation verifying eligible customers that were receiving more than one Lifeline subsidy per household.
4. Plan Offerings. Company shall file a copy of all plan offerings that are eligible for the Lifeline discount within 60 days of Company receiving ETC designation by this Commission.
5. Changes to existing plans or new plans. Company shall file a copy of its Lifeline plan that was changed regarding any rate, term or condition, as well as any new plans or products introduced.
6. Changes to Flat's Colorado-Specific Lifeline Application. Company shall file a copy of the Lifeline application form 30 days before changes are implemented.

ATTACHMENT 5

**LIFELINE BASIC UNIVERSAL SERVICE OFFERING  
OF FLAT WEST WIRELESS, LLC**

The following contains a detailed description of Flat West Wireless, LLC's ("Company") Lifeline Basic Universal Service (LBUS) offering in Colorado. This description relates only to the Company's wireless LBUS offering and in no way relates to the Company's other service offerings.

**A. COMPANY'S LIFELINE BASIC UNIVERSAL SERVICE OFFERING**

Company's Lifeline Basic Universal Service Offering ("LBUS Offering") Includes the Following Services Required under 47 C.F.R. § 54.101(a) and 4 CCR 723-2-2308(a):

1. Access to Public Switched Telephone Network, Single-Party Service and Local Usage. The Company's service is a single-party service that includes access to the public switched telephone network and unlimited local usage that allows customers to originate and terminate calls within the applicable Local Calling Area as set forth below.
2. The Company's LBUS Offering Will Provide the Functional Equivalent of Dual Tone Multi-Frequency ("DTMF") Signaling. DTMF is a method of call signaling that facilitates the transportation of call set-up and call detail information.
3. Access to Emergency Service. Customers of the Company's LBUS Offering will be able to reach a public safety answering point by dialing "911" regardless of activation status. Company will provide its Lifeline customers with 911 and E911 compliant handsets and replacing non-compliant handsets at no additional charge.
4. Access to Long Distance Service. As part of the Company's LBUS Offering, customers will have access to long distance service that allows for the origination of calls completed outside of the applicable Local Calling Area. These calls are billed as long distance calls as set forth herein. A customer may also access a specific long distance carrier by dialing that carrier's access number.
5. Access to Directory Assistance. The Company's LBUS Offering includes Directory Assistance, which provides customers with access to information contained in directory listings.
6. Access to Operator Services. Customers will have access to live or automatic operator assistance for the placement of telephone calls,



ATTACHMENT 5

including collect calls, calling card calls, credit card calls, person-to-person calls, and third party calls, as well as obtaining related information.

7. Toll Blocking. Customers may choose to not have the capability of placing long distance toll calls from the customer's phone. If customer chooses this option, the Company will not require a service deposit.
8. Lifeline Services. Qualified low income consumers pay reduced monthly fees by virtue of the Federal Lifeline programs. The Lifeline discount in the amount of \$11.75 shall be applied to the monthly plan. Company does not offer reduced connection fees by virtue of the Federal Link-Up program. Customers may contact the Company for eligibility or more information.
9. Hearing Impaired. The Company will make available services for the hearing impaired. Customers may contact the Company for more information.

B. THE PRICING FOR COMPANY'S UNIVERSAL SERVICE OFFERING

1. The charge for the Company's LBUS offering, which is pay in advance offering, excluding taxes and governmental assessments, is \$25.00 per month and does not require the customer to sign a contract. There is a \$10.00 activation charge
2. Long distance calls are charged at \$5.00 per month for calls made within the United States.
3. The charge for voice mail, caller id, call waiting, 3-way conference calling, call forwarding is collectively \$5.00 per month.
4. Federal and state universal service assessments are imposed separately in an amount that is a percentage of the amount owed by customer.
5. Other governmental taxes and assessments imposed by law.
6. Customers will not be required to enter into a long-term service contract.

C. THE AREAS IN WHICH THE COMPANY'S UNIVERSAL SERVICE OFFERINGS ARE AVAILABLE, AND THE CORRESPONDING LOCAL CALLING AREAS

The Company's LBUS Offering is available to customers within the exchanges in which Flat has been designated as an ETC. The Local Calling Areas for customers in those exchanges will include access to a comparable or greater number of access lines as is required of the incumbent carrier, consistent with



ATTACHMENT 3

applicable regulatory standards. When Local Calling Areas are to be changed, Flat will file an amendment to this Service Description showing the Local Calling Areas prior to implementing any changes. Calls placed to destinations outside of the Local Calling Area will incur toll and long distance charges.

The Company's LBUS Offering, with unlimited local calling which is part of that offering, applies to all calls placed by Customer on the "Primary Cell Site" to which Customer's phone is assigned. "Primary Cell Site" is defined as the cell site that is best suited to accommodate a specific Customer's telephone usage because of its proximity or technical attributes. The assigned Primary Cell Site is subject to change by the Company in the event of system outages or network changes.