

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO**

Docket No. 15A-0066T

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IN THE MATTER OF THE APPLICATION OF AMERIMEX COMMUNICATIONS CORP.,  
D/B/A SAFETYNET WIRELESS FOR DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER IN THE STATE OF COLORADO

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**RESPONSES OF PARTIES TO QUESTIONS AND PROVIDING INFORMATION  
PURSUANT TO DECISION R15A-0893-I, MOTION FOR APPROVAL OF AMENDED  
STIPULATION, EXHIBITS AND AMENDED EXHIBITS AND WAIVER OF  
RESPONSE TIME**

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**SUMMARY**

In Decision R15A-0893-I, the Administrative Law Judge (ALJ) requested that the parties, respectively Staff of the Commission and Amerimex (Parties) respond to questions set out in that decision. The jointly prepared responses are included below. In addition, because the responses required amendments to the Stipulation and Settlement Agreement (Stipulation) and to Exhibits 2 and 3, the Parties are filing an Amended Stipulation and Settlement Agreement (Amended Stipulation) and Amended Exhibits 2 and 3. The Parties now jointly move the Commission to approve the Amended Stipulation and Exhibit 1, Amended Exhibits 2 and 3 and Exhibit 4. Because this motion is jointly filed and there are no other parties to this proceeding, the Parties also request waiver of response time.

**RESPONSES**

In Decision R15A-0893-I in Proceeding No. 15A-0066T, Administrative Law Judge, Mana Jennings Fader, directed the Parties to respond to questions set out in Paragraph 13 of that Decision. The Parties jointly prepared the following responses. For ease of reference, this response shall contain the question with the same numbering format as in Decision R1500893-I,

followed by the Response. In addition, the Parties made changes to the Stipulation and Exhibits as noted below and provide an amended copy of the stipulation and amended exhibits 2 and 3 for use and approval of by the ALJ. These documents are entitled Amended Stipulation and Amended Exhibits in this Response.

13. The Parties will respond to these questions and provide the requested information:

- a. General. Provide Applicant's full and correct legal name.

RESPONSE: AmeriMex Communications Corp.

- b. General. List each jurisdiction in which Applicant is designated as an Eligible Telecommunications Carrier (ETC) to provide Lifeline service. For each listed jurisdiction, indicate whether AmeriMex is a wireline ETC or a wireless ETC in that jurisdiction.

RESPONSE: California (wireless ETC); Georgia (wireless ETC); Kentucky (wireless ETC); Michigan (wireless ETC); Pennsylvania (wireless ETC); and Wisconsin (wireless ETC). AmeriMex acknowledges that the Klein Testimony included the erroneous assertion that AmeriMex is a wireline ETC in Georgia. To the extent such statements regarding ETC designation are inconsistent with information contained herein, the Commission should rely on this response.

- c. General. The Stipulation (including Exhibits) modifies (or appear to modify) some aspects of the Application. To the extent the two documents contain different provisions, on which document should the Commission rely?

RESPONSE: To the extent that the Amended Stipulation and Amended Exhibits modify the Application, the Amended Stipulation and the Amended Exhibits are a written express understanding of the agreement of the Parties and it is the intent of the parties that the Commission should rely on the Amended Stipulation and the Amended Exhibits as the agreement of the Parties for approval in this proceeding.

- d. General. The Klein Testimony provides a great deal of information that supplements--and, in some instances, updates or clarifies--the Application. To what extent should the Commission rely on the Klein Testimony when considering the Application or the Stipulation (or both)? To the extent the Klein Testimony may contain information that differs from the Application, on which document should the Commission rely? To the extent the Klein Testimony may contain information that differs from the Stipulation, on which document should the Commission rely?

RESPONSE: To the extent that the Klein Testimony may contain information that either differs from the Application or was provided to update/clarify the Application, the Commission should rely on the Klein Testimony. However, the Commission should also rely on the Stipulation, as amended, to the extent it may differ from the Testimony.

e. General. Throughout the Stipulation are references to Attachments. Are the references to the Exhibits to the Stipulation? If not, to what does each refer?

RESPONSE: To clarify the Amended Stipulation, the word "Attachment" has been removed. Any documents that are referenced for inclusion in the Amended Stipulation are now referenced as Exhibits and Amended Exhibits. The only changes made to the original Exhibits by the Parties are to the previously filed Exhibit 2 and Exhibit 3. Those exhibits have been clearly remarked and refiled as Amended Exhibits 2 and 3. In addition, any reference in Amended Exhibits 2 and 3 which used to reference Attachments to the Stipulation has been changed to reference the proper Exhibit by number. Exhibit 1 is the same as Exhibit 5 filed with the Application. No changes have been made to Exhibits 1 and 4 as filed previously and those exhibits are considered part of and included in the Amended Stipulation.

f. General. Throughout the Exhibits to the Stipulation are references to Attachments. Are the references to the Exhibits to the Stipulation? If not, to what does each refer?

RESPONSE: See the Response to Paragraph 13e above.

g. General. Identify each fee or charge (as examples only: termination, reconnection, reactivation, governmental) that Applicant plans to assess its Lifeline customers in Colorado. For each identified fee and charge, state the circumstances under which Applicant will assess the fee or charge. For each identified fee and charge, state where in the Stipulation, the Exhibits to the Stipulation, or the Klein Testimony (or elsewhere) the fee or charge and the circumstances under which it will be assessed are discussed. For each identified fee and charge, explain how Applicant will inform or notify a prospective Lifeline customer in Colorado of the fee or charge and the circumstances under which the fee or charge will be assessed. For each identified fee and charge, assuming the Application is granted and Applicant has Lifeline customers in Colorado, explain how Applicant will inform or notify its then-existing Lifeline customers in Colorado of a change in a fee or charge and of a change in the circumstances under which Applicant will assess the fee or charge.

RESPONSE: AmeriMex charges a \$25 activation fee for which first-time customers are afforded a waiver. However, if the customer is a return customer that has already received waiver of the \$25 activation fee once before, he/she will be charged the \$25 activation fee. The

return customer will be notified of the \$25 fee during the re-enrollment process, at which time such customers will have the choice of either paying the fee, and continuing the enrollment, or choosing to cancel re-enrollment.

h. Stipulation at 6at 6 (“The Parties agree that the Commission should grant Amerimex a waiver given that the recent changes to the Lifeline program which eliminated the reporting of unfulfilled requests.”): Provide citations for the referenced changes to the Lifeline program (e.g., citation to the 47 Code of Federal Regulations, to an order of the Federal Communications Commission (FCC), to other authority).

RESPONSE: Under the *Lifeline Reform Order*, the FCC revised its regulations pertaining to annual reporting for Lifeline-only ETCs. The FCC had previously indicated that recipients of high-cost support would report pursuant to new section 47 C.F.R. § 54.313, and 47 C.F.R. § 54.209 would continue to apply only to Lifeline-only ETCs. The *Lifeline Reform Order* then deleted 47 C.F.R. § 54.209 and moved those reporting requirements relevant to ETCs providing Lifeline services to subpart E, which governs universal service support provided to low-income consumers (*see* 47 C.F.R. § 54.422, which became effective June 28, 2012 after publication in the Federal Register (77 FR 38534)). While 47 C.F.R. § 54.313(a)(3) still requires high-cost ETCs to report on unfulfilled service requests, 47 C.F.R. § 54.422 contains no such requirement for low-income only ETCs.

i. Stipulation at 8 at ¶5. (“Amerimex will offer a choice of three (3) LBUS [Lifeline Basic Universal Service] Plans to eligible Lifeline customers as described in [Exhibit] 3” to the Stipulation. The LBUS Plans “described in [Exhibit 3] comply with” Rule 4 CCR 723-2-2187(d)(XII).”) Exhibit 3 to the Stipulation contains only one LBUS Plan, which contains 250 units. Explain the basis or bases for the Parties’ position that the LBUS Plan in Exhibit 3 to the Stipulation complies with Rule 4 Code of Colorado Regulations 723-2-2187(d)(XII).<sup>1</sup>

RESPONSE: Exhibit 3 should also reference the Company’s proposed 1,000 Minute Plan, which was included as Exhibit SK-4 of the Klein Testimony; the Parties’ will file a revised Exhibit 3 to the Stipulation. Applicant’s LBUS plans comply with Rule 2187(d)(XII) as AmeriMex offers the Lifeline subscriber at least one plan with more than 900 minutes of use per month. AmeriMex’s Lifeline plans are consistent with other previously-designated ETC Lifeline-only carriers in Colorado.

j. Stipulation at 9 at ¶9. (This paragraph discusses Applicant’s Compliance Plan submitted to, and approved by, the FCC.): Must Applicant provide a formal notification to the FCC of Applicant’s adoption of the approved Compliance Plan? If it does, has Applicant provided formal notification to the

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<sup>1</sup> [Noted as Footnote 4 in Decision R15-0893-I] <sup>(4)</sup> This Rule is found in the Rules Regulating Telecommunications Providers, Services, and Products, Part 2 of 4 Code of Colorado Regulations 723.

FCC of Applicant's adoption of the approved Compliance Plan? If it has provided that notification, provide a copy of that notification.

RESPONSE: There is no FCC requirement or process set forth for an ETC to formally notify the FCC of Applicant's adoption of the approved Compliance Plan. Applicant's initial submission of its Compliance Plan for approval to the FCC is itself Applicant's commitment to abide by the conditions set forth in the Compliance Plan, which Applicant is then bound to upon FCC approval.

k. Stipulation at 12 at ¶11.F. ("Amerimex shall remit and pay the Colorado High Cost charge, if required by law, at the rate then in effect, on all intrastate retail voice minute revenues received from subscribers[.]") See also Exhibit 3 to the Stipulation at ¶ B.4 (same.): Explain the "if required by law" reservation and the decision to include that language.

RESPONSE: The Parties believe this is an inadvertent error in this document. The Parties are amending the Stipulation to remove this language from both the Stipulation and Exhibit 3 as shown in Amended Stipulation and Amended Exhibit 3.

l. Stipulation at Exhibit 2 at §C ("[Exhibit 1] to the Stipulation depicts the non-rural exchanges where Amerimex is designated" as an ETC.): Is Exhibit 1 to the Stipulation a complete list of all exchanges in Colorado in which Applicant seeks in this Proceeding to be designated as an ETC to provide Lifeline service? If Exhibit 1 is a complete list, is the reference to non-rural in § C necessary? Explain the response. If Exhibit 1 is not a complete list, provide a list of the rural exchanges in which Applicant seeks in this Proceeding to be designated as an ETC to provide Lifeline service.

RESPONSE: Exhibit 1 to the Stipulation is a complete list of all exchanges in Colorado in which Applicant seeks – in this Proceeding – to be designated as an ETC to provide Lifeline service. Applicant has not sought to be designated as an ETC in any rural exchanges in Colorado. The reference to non-rural in § C is intended to clarify that the designated service area does not contain any rural exchanges.

m. Stipulation at Exhibit 2 at §D.3 (As relevant here, the penultimate sentence of this section reads: "Amerimex shall further direct the supervisory personnel to provide the complainant that they may contact the External Affairs Section): Is there language missing?

RESPONSE: The Parties agree that the rest of the agreed upon language is missing. The intent of the Parties was not fully included, and the sentence shall be amended to read as follows: "Amerimex shall further direct the supervisory personnel to provide the complainant that they may contact the External Affairs Section of the Commission at Colorado Public Utilities Commission, Consumer Affairs, 1560 Broadway, Suite 250, Denver Colorado 80202,

Phone 303-894-2070 or 800-456-0858, fax number 303-894-2532 or by e-mail to [dora\\_puc\\_complaints@state.co.us](mailto:dora_puc_complaints@state.co.us) for further review of an unresolved problem.” See Amended Stipulation Exhibit 2.

n. Stipulation at Exhibit 2 at §D.3: Verify that the e-mail address in the penultimate sentence is correct. If the address is not correct, provide the correct e-mail address.

RESPONSE: To the best of the Applicant’s knowledge, the e-mail address in the penultimate sentence of Exhibit 2 at § D.3 is correct.

o. Stipulation at Exhibit 2 at §F.3 (“Under circumstances where the period to provide Lifeline service exceed[s] 30 days ...”): The referenced 30-day period is measured from the occurrence of what specific event or occurrence?

RESPONSE: The referenced 30-day period is measured from the date of approval of the customer’s eligibility, consistent with Exhibit 2 at §§ F.1 and F.2.

p. Stipulation at Exhibit 2 at §H (This provision requires Applicant to “submit annual reports describing advertising materials in use in Colorado to the” Colorado Office of Consumer Counsel (OCC).): List each provision in the Stipulation and in the Exhibits to the Stipulation in which the OCC is referenced. For each listed provision, state whether the reference to the OCC should be retained and explain the response.

RESPONSE: The Parties recognize that pursuant to a change in Colorado statutes during the 2015 legislative session, the OCC no longer is able to participate in proceedings involving telecommunication service. See Amended Exhibit 2 which has removed the words “and the OCC” from this Exhibit. The Amended Stipulation and the Amended Exhibits 2 and 3 have been searched to make sure that all inadvertent references to the Office of Consumer Counsel (“OCC”) have been removed.

q. Stipulation at Exhibit 2 at note 1 (“Amerimex will comply with the temporary address rule if and when it becomes effective; as of the date of this Stipulation, this requirement has not been approved pursuant to the Paperwork Reduction Act.”): Verify that the referenced FCC regulation is not in effect. If the referenced FCC regulation is in effect, state the date on which the regulation went into effect.

RESPONSE: Certain provisions of the rules adopted as part of the FCC’s *Lifeline Reform Order*, including those regarding temporary address verification, contained information collection requirements subject to approval from the Office of Management and Budget (OMB); the FCC submitted those rule revisions under control number 3060-0819 to OMB for review and approval, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520).

By publication in the Federal Register on December 4, 2012, the FCC notified the public that it “received OMB approval on November 7, 2012, for the information collection requirements contained in the Commission’s rules at 47 C.F.R. §§ 54.202(a), 54.401(d), 54.403, 54.404, 54.405(c), 54.405(e), except the portion of paragraph (4) relating to temporary address de-enrollment, 54.407, 54.410(a) through (f), 54.416, 54.417, 54.420, and 54.422 (77 FR 71712). The OMB did not approve the rules regarding temporary address verification (i.e. 54.410(g) and a portion of 54.405(e)), and the FCC has not resubmitted the respective rules to OMB for reconsideration.

r. Stipulation at Exhibit 2 at § Q.1 Is § 1.a correct as a stand-alone section? Is § 1.a the conclusion of the introductory portion of § Q.1? If § 1.a is the conclusion of § Q.1, does § Q.1 need to be rewritten or restructured? If it does, explain how.

RESPONSE: The Parties have changed the language of §Q.1.a at the beginning of §Q.1. to clarify that an SMS or text message or a letter printed in English and Spanish per 4 CCR 723-2-2303(d)(II)) must be sent to a customer prior to denial or discontinuance of service. The language in §Q 1.a has been rewritten to state the specific express exceptions to this customer notice requirement that results in service denial or discontinuance In addition, the remaining lettered subsections have been changed to numbers 1 through 5.

s. Stipulation at Exhibit 2 at § Q.1.b (“If a condition immediately dangerous or hazardous to life, physical safety, or ... .”): Is there language (e.g., a verb) missing?

RESPONSE: The Parties appreciate the question and have added the word “exists” after the words “physical safety” to the Amended Stipulation, such that subsection will read as follows:

1. If a condition immediately dangerous or hazardous to life, physical safety exists, or

t. Stipulation at Exhibit 3 (This Exhibit describes the LBUS offering.): What happens to unused LBUS Plan minutes at the end of each month (e.g., expire, rollover, something else)? Explain the response.

RESPONSE: Unused LBUS Plan minutes expire at the end of the last day of each monthly cycle, and 250 new minutes are added on the first day of each new monthly cycle.

The Parties, having fully responded to the questions posed in Decision R15-0893-I move for approval of the Amended Stipulation, Exhibit 1, Amended Exhibits 2 and 3 and Exhibit 4. Further, the Parties again request that any further clarifications needed by the ALJ be requested in writing by the ALJ to avoid the expense and time of a hearing. If however, a hearing on the Amended Stipulation and Amended Exhibits is necessary, the Joint Parties provide the following

two dates when witnesses for the Parties will be available. These dates have been coordinated with the public calendar of the PUC available on its website to determine the ALJ's availability.

These dates are as follows: September 15 and 16, 2015.

Counsel for Staff has given permission to counsel for Amerimex to file this response and to state that the Responses, the motion and the request for waiver have been approved by Counsel for Staff.

DATED this 31<sup>st</sup> day of August, 2015.

*/s/ Craig D. Joyce*

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 31<sup>st</sup> day of August, 2015, the foregoing **RESPONSES OF PARTIES TO QUESTIONS AND PROVIDING INFORMATION PURSUANT TO DECISION R15A-0893-I, MOTION FOR APPROVAL OF AMENDED STIPULATION, EXHIBITS AND AMENDED EXHIBITS AND WAIVER OF RESPONSE TIME** was e-filed using the Colorado Public Utilities Commission's website's e-filing link with:

Doug Dean  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
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I further certify that a true and correct copy of the foregoing was sent to the following:

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*/s/ Toni Fox*

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Toni Fox

\* Denotes persons eligible to receive confidential proprietary information pursuant to the Commission's Rule on Confidentiality, 4 CCR 723-1100-1102.

~ Signed a Non-Disclosure Agreement.