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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF COMMNET WIRELESS, LLC FOR) CASE NO. CWL-T-21-01
DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER IN)
IDAHO FOR PURPOSES OF RECEIVING) COMMENTS OF THE
RURAL DIGITAL OPPORTUNITY FUND) COMMISSION STAFF
SUPPORT)
)

The Staff of the Idaho Public Utilities Commission (“Staff”) submits the following comments.

BACKGROUND

On March 9, 2021, Commnet Wireless, LLC (“Commnet” or “Company”) applied for designation as an Eligible Telecommunications Carrier (“ETC”) in Idaho. The Company represents that it operates facilities-based networks in 11 states providing mobile voice and broadband services, as well as fixed broadband services on a wholesale and retail basis. *Application* at 2. The Company states it provides these services in rural areas, mostly with less than 2,500 people. *Id.*

The Company states that as a winning bidder in the Federal Communications Commission (“FCC”) Rural Digital Opportunity Fund (“RDOF”) auction (Auction 904), the Company’s receipt of RDOF funding is conditioned upon obtaining designation as an ETC and submitting evidence of that designation to the FCC no later than June 7, 2021.

The Company asserts it meets all federal and state requirements for designation as an ETC in Idaho and that designating the Company as an ETC is in the public interest. *Id.* at 3-4. The Company asks that the Commission grant it ETC status before June 7, 2021.

THE APPLICATION

Commnet is a Delaware limited liability company with its principal place of business at 400 Northridge Road, Suite 1100, Atlanta, Georgia 30350. Application at 2. Commnet is authorized to do business in Idaho. *See Id.* The Company “provides voice and broadband service in rural areas; principally in areas with a population of 2500 or less.” Application at 2.

The Company states it qualifies for ETC designation under the federal Telecommunications Act of 1996 (47 U.S.C. § 214(e)). *Id.* Specifically, the Company asserts it satisfies the requirements for designation as an ETC in that it: is consistent with the public interest, convenience, and necessity; is a common carrier; will advertise using media of general distribution; will make available Lifeline service; is not seeking ETC status on tribal lands; has the ability and commits to provide supported services; has the ability to remain functional in emergency; commits to consumer protection and service; committed to providing comparable local usage plans; and will comply with all reporting requirements. *Id.* at 3-9.

STAFF ANALYSIS

Staff has reviewed Commnet’s Application and has conducted an analysis of the Company’s fulfillment of the federal Telecommunications Act of 1996, the FCC’s regulations, the RDOF requirements, and Commission Order No. 29841. In addition, Staff has analyzed the public interest considerations of awarding the Company ETC designation. Specific state and federal requirements for ETC designation are discussed in more detail below.

Public Interest Analysis

Staff typically applies a two-prong test when analyzing whether a company’s ETC application is in the public interest. First, Staff verifies that the Company will contribute to the appropriate Idaho funds. Second, Staff analyzes whether the Company’s Application raises “cream skimming” concerns.

In its Application, Commnet confirms that upon designation as an ETC in Idaho, the Company would participate in the appropriate Idaho programs, comply with the Commission's annual reporting requirements, and otherwise comply with Order No. 29841. Application at 4-9. The Company requests ETC designation for entire census blocks in areas that are unserved, high-cost areas of Idaho; therefore, no cream skimming analysis is required. *See Id.* at 4, Exhibit 1. Thus, Staff believes Commnet's Application satisfies the public interest considerations.

Network Improvement Plan

The Commission requires all ETCs receiving high-cost support to provide a two-year network improvement and progress report. *See* Order No. 29841 at 18. However, the FCC waived the requirement for a winning bidder to file a five-year plan as part of the FCC ETC designation process. WCB Reminds Connect Am. Fund Phase II Auction Applicants of the Process for Obtaining A Fed. Designation as an Eligible Telecommunications Carrier, 33 F.C.C. Rcd. 6696 (2018). The FCC removed this requirement because it "adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certification of compliance with benchmark milestones." *Id.*

The Company did not provide a two-year network improvement and progress report as part of its Application. However, Commnet does note that "the FCC has waived the requirement for a winning bidder to file a five-year plan." The Company has respectfully requested that the Commission waive its two-year network improvement plan. Application, 6-7. Staff believes a waiver to the Commission's two-year plan requirement is appropriate because of the FCC's heightened oversight of RDOF Action winners.

Ability to Remain Functional in Emergencies

The Company certifies it has the ability to remain functional in emergency situations pursuant to 47 C.F.R. § 54.202(a)(2) and Commission Order No. 29841. "Commnet has adequate amounts of back-up power to ensure functionality with an external power source, and is able to reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations." Application at 7. Staff agrees Commnet satisfies this requirement.

Other ETC Designation Requirements

Additional requirements for ETC designation are detailed in Appendix 1 of Order No. 29841 and are discussed in more detail below.

1. Common Carrier Status. Commnet is a common carrier as defined in U.S.C. Title 47. *Id.* at 4-5.

2. Provide Universal Services. Commnet will provide all required services and functionalities as set forth in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)). *Id.* at 4-5.

3. Advertising. Commnet will advertise the availability and rates for its services described in the Application through media of general distribution as required by 47 U.S.C. § 214(e)(1)(B). *Id.* at 5-6.

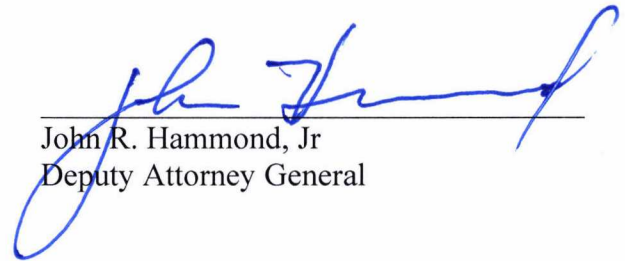
4. A Commitment to Consumer Protection and Service. Commnet commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. *Id.* at 8.

5. Description of the Local Usage Plan. Commnet will offer calling plans comparable to those offered by ILECs in the Designated Service Area.” *Id.* at 8.

STAFF RECOMMENDATION

Based on its review of the Company's Application, Staff believes the Application demonstrates the Company's commitment to fulfill the obligations of an ETC in Idaho. The Company will provide all universal services supported by the federal USF throughout its service territory and it has addressed all the public interest questions that accompany an ETC application. Thus, Staff believes Commnet's Application for designation as an ETC is in the public interest and should be approved.

Respectfully submitted this *6th* day of May 2021.



John R. Hammond, Jr
Deputy Attorney General

Technical Staff: Daniel Klein

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 6TH DAY OF MAY 2021, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. CWL-T-21-01, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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