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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IM TELECOM, LLC)
D/B/A INFINITI MOBILE’S APPLICATION) **CASE NO. IMT-T-23-01**
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER)
) **COMMENTS OF THE**
) **COMMISSION STAFF**

COMMISSION STAFF (“STAFF”) OF the Idaho Public Utilities Commission, by and through its Attorney of record, Michael Duval, Deputy Attorney General, submits the following comments.

BACKGROUND

On December 15, 2023, IM Telecom, LLC d/b/a Infiniti Mobile (“Company” or “INFINITI”) applied to the Idaho Public Utilities Commission (“Commission”) for designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Idaho (“Application”). The Company also filed a Notification of Intent to Provide Service on December 20, 2023.

The Company stated that it submitted the Application for designation as an ETC in the entire State of Idaho—including those on federally recognized Tribal lands for the sole purpose of utilizing Universal Service Fund (“USF”) funding to provide Lifeline service to qualified Idaho low-income consumers. The Company also stated that it is not eligible for and does not

seek Link-Up or high-cost support. Application at 9. The Company requested that its designation as an ETC include “the authority to participate in and receive reimbursement from the Idaho Telecommunications Service Assistance Program (ITSAP).” *Id.* at 2. The Lifeline program¹ is intended to provide more affordable telecommunications service benefits to eligible low-income customers through the federal USF and ITSAP. Idaho participates in the residential Lifeline program pursuant to *Idaho Code* § 56-901. *See* Order No. 21713.

The Company represented that the Commission has jurisdiction over this matter and that the Company is a common carrier with the ability to provide the telecom services listed in its Application. It also asserted that it meets all federal and state requirements for designation as an ETC, including the requirements for ETCs participating in the Lifeline program, and that being designated as an ETC is in the public interest. The Company asked that the Commission grant it ETC status “expeditiously.” *Id.* at 2.

The Application

The Company is an Oklahoma limited liability company, which was organized in the State of Oklahoma on February 9, 2012, with its principal office located at 500 N. Central Expressway, Suite 202, Plano, Texas 75074. It is authorized to do business in Idaho, by the Secretary of State, as a Foreign Limited Liability Company.² The Company is a wholly owned subsidiary of KonaTel, Inc., a Delaware corporation. The Company confirmed that it is a provider of Commercial Mobile Radio Service and provides prepaid wireless telecommunications services to consumers by using the underlying wireless networks of AT&T Mobility (“AT&T”), Verizon Wireless (“Verizon”) and T-Mobile USA, Inc. (“T-Mobile”) (collectively “Underlying Carriers”) on a wholesale basis. *Id.* at 3.

The Company requested an ETC designation that is statewide in scope to allow the Company to provide basic Lifeline service wherever its underlying, facilities-based providers have wireless coverage, including federally recognized tribal lands,³ including as it may change

¹ The Lifeline program does ensure that low-income consumers have access to and can afford essential voice and broadband communications services.

² Staff confirmed and reviewed the certificate of registration with the Secretary of State website.

³ In compliance with Commission Order 35126, the Company stated that a copy of this Application was sent concurrent with this filing to the tribes identified on the attached Certificate of Service. Additionally, the Company requested that the Commission expressly indicate in the ETC designation order that such designation includes federally recognized tribal lands.

going forward. *Id.* at 9. The Company asserted that it meets the requirements of Section 214(e)(1) of the Federal Telecommunications Act (“Act”) to be designated as an ETC. *Id.* at 4-6.

The Company stated that it is entitled to an ETC designation status under 47 U.S.C. § 214(e)(2), which authorizes state commissions to grant ETC designations. *Id.* at 5-6. The Company asserts that it: (1) is a common carrier; (2) commits and can provide services supported by federal universal support mechanisms; (3) will advertise the availability of supported services in a manner reasonably designed to reach those likely to qualify; (4) is committed to consumer protection and service quality standards; (5) is capable of remaining functional in emergencies; (6) has the financial and technical capability to provide Lifeline service; and (7) will comply with requirements imposed by this Commission. *Id.* at 7-13.

The Company affirmed that it seeks the ETC designation “solely to utilize USF funding to provide Lifeline service to qualified low-income consumers” in Idaho. *Id.* at 9. The Company represents that being granted the ETC designation will benefit the public interest by making the Company’s services available to a broad range of low-income consumers in Idaho. *Id.* at 18. The Company noted that one of the goals of the Act is to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies to all consumers, regardless of geographic location or income. Thus, granting it the ETC designation in Idaho will further that public interest. *Id.* at 17.

INFINITI’s Lifeline Service Offerings

The Company represented that it offers an easy-to-use, competitive, and highly affordable wireless telecommunications service, which benefits qualified consumers who either have no other service alternatives or who choose a wireless prepaid solution instead of a more traditional service. *Id.* at 18. The prepaid mobile phone services include calling, text messaging, and broadband access, along with user-friendly handsets, tablets, or hotspot devices. *Id.* at 4. The Company confirmed that it intends to offer the following Idaho service plan.⁴ All Plans, as shown in Table 1 below, include Free phone or SIM card, Calls to 911 emergency services, Calls to Customer Service, Access to Voicemail, Caller-ID, Call-Waiting, Call-Forwarding, and 3-Way Calling features, Domestic, Long-Distance Calls. Additionally, Customers will have the

⁴ This is also shown on Exhibit 7 attached to the Application.

possibility to top up their services. Top ups will be composed of \$10.00 for 1,000 minutes and 1,000 texts; \$10.00 for 1 Gigabyte (“GB”) Refill; \$20.00 for 2GB Refill; and \$30.00 for 4GB Refill.

Table 1: Proposed Wireless Lifeline Offering

Product Plans	Plan 1 (Non- Tribal)	Plan 2 (Non-Tribal)	Plan 3 (Tribal)
Data	1 GB	4.5 GB	6 GB
Voice Minutes	1,000	3,000	3,000
Text	1,000	Unlimited	Unlimited
Price to Lifeline Subscribers	\$14.00/month	\$20.00/month	\$0.00/month

STAFF ANALYSIS

Staff reviewed The Company’s Application. Staff analyzed the Company’s fulfillment of the Federal Telecommunications Act of 1996 (“Act”), the Federal Communications Commission (“FCC”) regulations, and Idaho Public Utilities Commission Order Nos. 29841 and 35126. The specific state and federal requirements for ETC designation are discussed in more detail below.

Public Interest Considerations

Staff applies a two-prong test when analyzing whether a Company’s ETC Application is in the public interest. First, Staff determines whether the Company contributes to Idaho funds. Second, Staff analyzes whether the Company’s Application raises “cream skimming” concerns.

In the Application, the Company confirmed that upon approval as an ETC in Idaho, it would participate in the appropriate Idaho programs, specifically the ITSAP program. Application at 2. The Company requests an ETC designation that is statewide in scope. *Id.* at 9. Therefore, no cream skimming analysis⁵ is required. Staff believes that the Company satisfies the public interest considerations.

⁵ Cream skimming analysis is the examination of the perceived business practice of a company providing a product or a service to only the high-value or low-cost customers of that product or service, while disregarding clients that are less profitable for the company.

Network Improvement Plan

The Commission requires a two-year network improvement and progress report from all ETCs receiving high-cost support. *See* Order No. 29841 at 18. However, the Commission determined in Case No. CRI-T-11-01 that ETC Applications for Lifeline-only ETC designations do not require a two-year network improvement plan. Order No. 32501.

In the USF and Inter-Carrier Compensation (“ICC”)⁶ Transformation Order, the FCC amended 47 C.F.R. § 54.202 to clarify that a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC. Lifeline-only ETCs do not receive high-cost funds to improve or extend networks, therefore the FCC “saw little purpose in requiring such plans as part of the ETC designation process.”⁷

The Company’s Application seeks only low-income USF support as a Lifeline-only ETC. Therefore, Staff believes that the Company need not submit a network improvement plan with its Application.

Tribal Notification

Pursuant to Commission Order No. 35126, an ETC applicant seeking ETC designation for any part of tribal lands in Idaho shall provide a copy of its application to the affected tribal government or tribal regulatory authority, as applicable, at the time it files its application with the Commission. Evidence of such notification shall be provided to the Commission. The Company provided a Certificate of Service⁸ that certified that it sent USPS-certified mail to the tribal authorities. Staff believes this certificate complies with Commission Order No. 35126.

Ability to Remain Functional in Emergencies

The Company stated that it will provide prepaid wireless telecommunications services to consumers by using the underlying wireless networks of the Underlying Carriers. Application at

⁶ An ICC is the system of regulated payments in which carriers compensate each other for the origination, transport, and termination of telecommunications traffic.

⁷ *See* Lifeline and Link up Reform and Modernization *et al*, WC Dkt No. 11-41 *et al*. Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 at para 386.

⁸ *See* Exhibit 8 attached to the Application.

11. Thus, because of this access to the Underlying Carriers' networks, it can remain functional in emergencies per Commission Order Nos. 29841, 35126, and 47 C.F.R, § 54.202(a)(2). Application at 11-12. The Company asserts that it will utilize the extensive and well-established network and facilities of Tier 1 carriers to provide its Lifeline services. The Underlying Carriers' networks have access to a reasonable amount of backup power to ensure functionality without an external power source, can reroute traffic around damaged facilities, and are capable of managing traffic spikes resulting from emergencies. *Id.* Therefore, the Staff accepts that the Company satisfies this requirement.

Other ETC Designation Requirements

Additional requirements for ETC designation are detailed in Appendix 1 of Order No. 29841 and Order No. 35126 and are discussed in more detail below.

1. Common Carrier Status.

The Company is a common carrier as defined by Title 47 U.S.C. § 153(10) and section 332(c)(1)(A) of the Act. *Id.* at 7.

2. Provide Universal Services.

The Company states that it will provide all required services and functionalities as outlined in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)). *Id.* at 13-14.

3. Advertising.

The Company stated that it 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); and section 54.405(c) of the FCC's rules. *Id.* at 10.

4. A Commitment to Consumer Protection and Service.

The Company stated that it is committed to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards, including compliance with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service as required by 47 C.F.R. § 54.202(a)(3). *Id.* at 12.

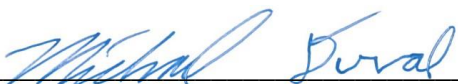
5. Description of the Local Usage Plan.

The Company offered a Lifeline service plan as outlined in Exhibit 7.

STAFF RECOMMENDATION

Based on its review of the Company's Application, the Staff believes that the Application demonstrates the Company's commitment to fulfilling the obligations of a Lifeline-only ETC in Idaho. The Company will provide all universal services supported by the federal USF throughout its service territory. It has addressed the public interest questions that accompany an ETC Application. The Company will provide multiple pricing plans, which will increase consumer choice for low-income wireless telephone services in Idaho. The Commission has previously granted wireless ETCs access to participate in the State's ITSAP program, so Staff supports allowing the Company to participate in the ITSAP program. Thus, the Staff believes that the Company's Application for designation as an ETC is in the public interest and should be approved for the entire State of Idaho as a service area.

Respectfully submitted this 25th day of March 2024.



Michael Duval
Deputy Attorney General

Technical Staff: Johan Kalala-Kasanda

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 25TH DAY OF MARCH 2024, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IMT-T-23-01, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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