

**BEFORE THE
NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Application of
IM Telecom, LLC d/b/a Infiniti Mobile
for Designation as an Eligible Telecommunications
Carrier in the State of Nebraska

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) Application No. C-4856 / NUSF-107
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**APPLICATION OF IM TELECOM, LLC D/B/A INFINITI MOBILE
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
IN THE STATE OF NEBRASKA**

I. INTRODUCTION

IM Telecom, LLC d/b/a Infiniti Mobile (“Infiniti Mobile” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)¹ and Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),² and the rules and regulations of the Nebraska Public Service Commission (“Commission”),³ hereby submits this Application for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Nebraska. Infiniti Mobile seeks ETC designation solely to participate in the federal Universal Service Fund’s (“USF”) Lifeline program and the Nebraska Universal Service Fund’s (“NUSF”) Nebraska Telephone Assistance Program (“NTAP”); the Company will not seek access to funds from the USF or NUSF/NTAP

¹ 47 U.S.C. § 214(e)(2).

² 47 C.F.R. §§ 54.101-54.207.

³ See Nebraska Administrative Code, Title 291, Chapter 5 §§ 009.01–009.02C (“Commission’s Rules”) and Chapter 10 § 004 (“NETC Rules”).

for the purpose of providing service to high-cost areas.⁴ As demonstrated herein, and as certified in Exhibit 1, Infiniti Mobile meets all the statutory and regulatory requirements for designation as an ETC in the State of Nebraska, including the requirements outlined in the FCC's *Lifeline and Link Up Reform Order*.⁵ Rapid grant of Infiniti Mobile's request, moreover, would advance the public interest because such designation would enable the Company to commence much-needed Lifeline service to low-income Nebraska residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve this Application for ETC designation.

All correspondence, communications, pleadings, notices, orders, and decisions relating to this Application should be addressed to:

Russell A. Westerhold
Fraser Stryker PC LLO
500 Energy Plaza, 409 South 17th Street
Omaha, NE 68102
(402) 978-5339 (Direct Dial)
(402) 341-8290 (Fax)
Email: rwesterhold@fraserstryker.com

And

Lance J.M. Steinhart
Lance J.M. Steinhart, P.C.
1725 Windward Concourse, Suite 150
Alpharetta, Georgia 30005
(770) 232-9200 (Phone)
(770) 232-9208 (Fax)
E-Mail: lsteinhart@telecomcounsel.com

Attorneys for IM Telecom, LLC d/b/a Infiniti Mobile

⁴ Given that Infiniti Mobile only seeks support from the low-income program and does not seek any high-cost support, ETC certification requirements for the high-cost program are not applicable to the Company.

⁵ *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline and Link Up Reform Order*").

II. UNIVERSAL SERVICE OFFERING

A. Company Overview

Infiniti Mobile is an Oklahoma Limited Liability Company.⁶ The Company's principal office is located at 1705 South Baltimore Ave., Tulsa, Oklahoma 74119. Infiniti Mobile is a provider of commercial mobile radio service ("CMRS") throughout the United States, and provides prepaid wireless telecommunications services to consumers by using the Sprint Spectrum, L.P. ("Sprint"), Verizon Wireless ("Verizon"), and T-Mobile USA, Inc. ("T-Mobile") networks on a wholesale basis. Infiniti Mobile obtains from Sprint, Verizon, and T-Mobile the network infrastructure, including wireless transmission facilities, to allow the Company to operate as a Mobile Virtual Network Operator ("MVNO"). The Company has been designated as an ETC in Oklahoma, Wisconsin, and Nevada; and the Company currently has applications for ETC designation pending before the FCC for the states of Alabama, Connecticut, Delaware, Florida, Maine, New Hampshire, New York, North Carolina, Tennessee, Texas, as well as the District of Columbia and the Commonwealth of Virginia; before the Georgia Public Service Commission, for designation in Georgia; before the Vermont Public Service Board, for designation in Vermont; before the Kansas Corporation Commission, for designation in Kansas; before the California Public Utilities Commission, for designation in California; before the South Dakota Public Utilities Commission, for designation in South Dakota; before the Arizona Corporation Commission, for designation in the State of Arizona; before the Maryland Public Service Commission, for designation in the State of Maryland; and before the Pennsylvania Public Utility Commission, for designation in the State of Pennsylvania. No such petitions have been denied.

⁶ Infiniti Mobile was organized in the State of Oklahoma on February 9, 2012. The Company's Certificate of Authority to conduct business in the state of Nebraska is attached hereto as Exhibit 2. The Company's corporate and trade names and identifiers are: IM Telecom, LLC and Infiniti Mobile.

Infiniti Mobile's prepaid wireless services are affordable, easy-to-use, and attractive to low-income and lower-volume consumers, providing such consumers with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family as well as for contacting prospective employers. Infiniti Mobile offers consumers simple and affordable prepaid calling plans, easy-to-use handsets, and high-quality customer service. Given the Company's pricing and marketing strategy, and the demographics of other, similar MVNOs' customers, Infiniti Mobile anticipates that many of its customers will be from low-income backgrounds and will not have previously enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. Infiniti Mobile neither conducts credit checks nor requires customers to enter into long-term service contracts as a prerequisite to obtaining wireless service.

By providing affordable wireless plans and quality customer service to consumers who are otherwise unable to afford them, or who were previously ignored by traditional carriers, Infiniti Mobile will expand the availability of wireless services to many more consumers, which is the principal reason that Congress established the universal service program.

B. Proposed Lifeline Offering

Infiniti Mobile has the ability to provide all services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)) throughout Nebraska. Infiniti Mobile intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice usage.

The Company's Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other Infiniti Mobile prepaid customers, with one notable

exception: prepaid Lifeline services will not require payment of an out-of-pocket fee by subscribers, but instead, Infiniti Mobile will receive support from the Lifeline program as compensation for providing those services. Attached hereto as Exhibit 3 is a summary table of the Company's proposed Lifeline service offering.⁷ In addition to wholly supported voice services, prepaid Lifeline customers will also receive a free handset as well as voice mail, caller-I.D., and call-waiting services at no additional charge. Customers may use their minutes to place domestic, long-distance calls at no additional charge. Calls to 911 emergency services are always free, regardless of service activation or availability of minutes. As Exhibit 3 demonstrates, the Company's Lifeline offering will allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber and without the burden of credit checks or service contracts. Infiniti Mobile's prepaid offering will be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are nonetheless concerned about usage charges or long-term contracts.

Low-income consumers will further benefit from Infiniti Mobile's service because of the Company's unique platform that will allow customers to refill minutes at local stores in neighborhoods where many low-income customers reside. Infiniti Mobile has existing relationships with retail partners across the State of Oklahoma, and upon designation as an ETC in the State of Nebraska, Infiniti Mobile will establish relationships with such neighborhood retailers across the State. This innovative distribution model is more practical and convenient for existing and potential Lifeline customers than are other mechanisms, because such a model allows customers to obtain additional minutes without the expense and trouble of traveling to retail locations outside their neighborhoods or the burden of having to access a computer to go online.

⁷ The Company's Lifeline terms and conditions can be found online, at <http://infinitimobile.com>. The Company's retail terms and conditions can be found online, at <http://infinitimobile.com>.

Infiniti Mobile's distribution arrangement will therefore advance the Commission's goals of increasing awareness of and participation in the Lifeline program.

C. Prevention of Waste, Fraud and Abuse

Infiniti Mobile recognizes the importance of safeguarding the USF. Therefore, the Company has implemented the following 60-day non-usage policy in an effort to avoid waste, fraud, and abuse of the program. Infiniti Mobile will not seek reimbursement from the USF for inactive subscribers who have not used the service for a consecutive 60-day period.⁸ Infiniti Mobile will notify its subscribers at service initiation about the non-transferability of the phone service, its usage requirements, and the de-enrollment as well as deactivation that will result following non-usage in any 60-day period of time.⁹ An account will be considered active if, during any 60-day period, the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from the Company to add to an existing pre-paid Lifeline account; completes an outbound call; initiates an outbound SMS or data usage; answers an incoming call from anyone other than the Company, its representative, or agent; or affirmatively responds to a direct contact from the Company confirming that he or she wants to continue.¹⁰ Infiniti Mobile will provide the subscriber thirty (30) days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage; such notice may be given after thirty (30) days of non-usage. Customers that have been deactivated may participate in the Company's Lifeline service in the future by reapplying and re-establishing eligibility for Lifeline service.

⁸ See *Lifeline and Link Up Reform Order* at ¶ 257.

⁹ See *id.*

¹⁰ See *id.* at ¶ 261.

To further protect the integrity of the USF, Infiniti Mobile has contracted with CGM, LLC (“CGM”), of Roswell, Georgia, a lifeline service bureau, to edit all subsidy request data. CGM will process and validate the Company’s subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from the Company will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) inactive lines receiving subsidy: CGM’s systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described above, Infiniti Mobile ensures that it does not over-request from support funds.

III. THE COMMISSION HAS JURISDICTION TO DESIGNATE WIRELESS ETCs

Section 214(e)(2) of the Act provides state public utility commissions with the “primary responsibility” for the designation of ETCs.¹¹ Although Section 332(c)(3)(A) of the Act prohibits states from regulating the entry of or the rates charged by any provider of commercial mobile service or any private mobile service, this prohibition does not allow states to deny wireless carriers ETC status.¹² Therefore, the Commission has the authority to designate Infiniti Mobile as an ETC. Pursuant to this authority, the Commission has historically participated in determining whether to grant ETC status to an applying carrier, including any requesting wireless carrier.¹³ Under the Act, a state public utility commission with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of Section 214(e)(1). Infiniti Mobile recognizes that

¹¹ 47 U.S.C. § 214(e)(2).

¹² See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858–59, ¶ 145 (1997) (“USF Order”).

¹³ See e.g., *In the Matter of the Application of TerraCom, Inc., Oklahoma City, Oklahoma, for designation as an eligible telecommunications carrier in the State of Nebraska*, Application No. C-4464-NUSF-81, Order (August 7, 2012) (“TerraCom ETC Order”).

Section 214(e)(1)(A) of the Act provides that ETCs shall offer services—at least in part—over their own facilities and that Section 54.201(i) of the FCC’s Rules (47 C.F.R. § 54.201(i)) prohibits state commissions from designating as an ETC a telecommunications carrier that offers services exclusively through the resale of another carrier’s services. However, the FCC has granted forbearance from enforcement of this facilities requirement to carriers seeking Lifeline-only ETC designation.¹⁴ Section 10(e) of the Act (47 U.S.C. § 160(e)) provides the following: “[a] State commission may not continue to apply or enforce any provision of this chapter that the [Federal Communications] Commission has determined to forbear from applying under subsection (a) of this section.” As such, under Section 10(e), the Commission is required to act in accordance with the FCC’s grant of forbearance, and therefore, may not apply the facilities-based requirement to Infiniti Mobile. Therefore, the Commission has the authority under Section 214(e)(2) of the Act to grant Infiniti Mobile’s request for designation as an ETC throughout the State of Nebraska.

A. The ETC Designation Request Is Consistent with Recent Commission Precedent

Infiniti Mobile’s request for ETC designation to participate in the Lifeline program is consistent with the Commission’s designation of TerraCom as an ETC.¹⁵ In this decision, the Commission determined that the designation of a prepaid wireless carrier as an ETC would serve the public interest. Infiniti Mobile requests that the Commission expeditiously process its ETC Application so that the Company can quickly commence providing qualifying low-income Nebraska customers with affordable USF-supported wireless services during these challenging economic times for all state residents. Designation of Infiniti Mobile as an ETC would further

¹⁴ See *Lifeline and Link Up Reform Order* at ¶ 368.

¹⁵ See *TerraCom ETC Order*.

competition for wireless Lifeline service and would offer eligible consumers an additional choice of providers for accessing telecommunications services, representing a significant step towards ensuring that all low-income consumers share in the many benefits associated with access to wireless services.

IV. INFINITI MOBILE SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.” Section 214(e)(2) of the Act authorizes state commissions, such as the Commission, to designate ETC status for federal universal service purposes and authorizes the Commission to designate wireless ETCs.¹⁶ Section 214(e)(1) of the Act and Section 54.201(d) of the FCC’s rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier’s services, except where the FCC has forbore from the “own facilities” requirement. Applicants also must commit to advertise the availability and rates of such services.¹⁷ As detailed below, Infiniti Mobile satisfies each of the above-listed requirements.

A. Infiniti Mobile Will Provide Service Consistent with the FCC’s Grant of Forbearance from Section 214’s Facilities Requirements

Although Section 214 and Section 009.02A2 of the Commission’s Rules require ETCs to provide services using their facilities, at least in part, the FCC has forbore from that requirement with respect to carriers such as Infiniti Mobile. In the *Lifeline and Link Up Reform Order*, the FCC granted forbearance from the “own-facilities” requirement contained in

¹⁶ *USF Order*, at 8858-59, ¶ 145.

¹⁷ *See* 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

Section 214(e)(1)(A) for carriers that are, or seek to become, Lifeline-only ETCs, subject to the following conditions:¹⁸

(1) the carrier must comply with certain 911 requirements [(a) providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes; (b) providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services; and (c) complying with conditions (a) and (b) starting on the effective date of this Order]; and

(2) the carrier must file, and the Bureau must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary.

Infiniti Mobile will avail itself of the FCC's grant of blanket forbearance. In accordance with the *Lifeline and Link Up Reform Order*, Infiniti Mobile filed its Compliance Plan, which the FCC approved on August 8, 2012. A copy of its Compliance Plan, as approved, is attached hereto as Exhibit 4. Infiniti Mobile commits to providing Lifeline service in Nebraska in accordance with the Compliance Plan.

B. Infiniti Mobile Is a Common Carrier

CMRS providers like Infiniti Mobile are treated as common carriers.¹⁹

C. Infiniti Mobile Will Provide All Required Services and Functionalities

Through its wholesale arrangements with Sprint, Verizon, and T-Mobile, Infiniti Mobile is able to provide all of the services and functionalities required by Sections 54.101(a) and

¹⁸ See *Lifeline and Link Up Reform Order* at ¶¶ 368, 373, and 379.

¹⁹ *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory "mobile services" category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) ("mobile services" providers are common carriers); see also *PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) ("We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, . . . all mobile telephone services and resellers of such services.") (emphasis added).

54.202(a) of the FCC's Rules (47 C.F.R. §§ 54.101(a) and 54.202(a)) and Section 009.02A2 of the Commission's Rules, including the following:

1. Voice Grade Access to the Public Switched Telephone Network

Infiniti Mobile provides voice grade access to the public switched telephone network ("PSTN") through the purchase of wholesale CMRS services from Sprint, Verizon, and T-Mobile.

2. Local Usage

As part of the voice grade access to the PSTN, an ETC must provide minutes of use for local service at no additional charge to end-users. The FCC has not specified a minimum amount of local usage that an ETC must offer.²⁰ Infiniti Mobile offers a rate plans that provide its customers with minutes of use for local service at no additional charge.

3. Access to Emergency Services

Infiniti Mobile provides 911 and E911 access for all of its customers to the extent the local government in its service area has implemented 911 or E911 systems. Infiniti Mobile also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets.

4. Toll Limitation for Qualified Low-Income Customers

In its *Lifeline and Link Up Reform Order*, the FCC stated that toll limitation would no longer be deemed a supported service.²¹ "ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not

²⁰ See e.g., *In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision, 15 FCC Rcd 7331 (2002).

²¹ See *Lifeline and Link Up Reform Order* at ¶ 367.

distinguish between toll and non-toll calls.”²² Nonetheless, Infiniti Mobile’s offering inherently allows Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid, or pay-as-you-go, basis. Infiniti Mobile’s service, moreover, is not offered on a distance-sensitive basis, and local and domestic, long-distance minutes are treated the same. Infiniti Mobile will not seek reimbursement for toll limitation service.

5. Other Services

While no longer required by 47 C.F.R. § 54.101(a), Infiniti Mobile provides dual tone multi-frequency (“DTMF”) signaling to expedite the transmission of call-set-up and call-detail information throughout the network, single-party service for the duration of each telephone call and not multi-party (or “party-line”) services, access to operator services, the ability to make interexchange, or long-distance, telephone calls, and access to directory assistance services by dialing “411” from the provided wireless handsets.

D. Infiniti Mobile Will Advertise the Availability of Supported Services

Infiniti Mobile will broadly advertise the availability and rates for the services described above using media of general distribution as required by 47 C.F.R. § 54.201(d)(2) of the FCC’s regulations and Section 009.02A3 of the Commission’s Rules. Infiniti Mobile’s advertising will comply with the requirements set forth in the *Lifeline and Link Up Reform Order*, as outlined in the Company’s Compliance Plan.²³ The Company will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline service, using many mediums for outreach, including but not limited to, telephone marketing, direct mailings, and face-to-face events. The Company will engage in advertising campaigns specifically targeted to reach those likely to qualify for Lifeline service, promoting the availability of cost-effective wireless services

²² See *id.* at ¶ 49.

²³ See Exhibit 4; see also *Lifeline and Link Up Reform Order* at Section VII.F.

to this neglected consumer segment. Infiniti Mobile may also promote the availability of its Lifeline offering by distributing brochures at various state and local social service agencies, and may partner with nonprofit assistance organizations to inform customers of the availability of its Lifeline service. In addition, Infiniti Mobile will utilize its network of retail partners to help promote the availability of its Lifeline plans, especially those retail outlets that are frequented by low-income consumers. Infiniti Mobile will provide retail vendors with signage to be displayed wherever Company products are sold, and the Company will also provide such vendors with printed materials describing the Company's Lifeline program.²⁴

Statistics suggest that there are many eligible customers who are not yet aware of the programs. According to the best data available to the Company, as of December 31, 2011, only between 10 to 20% of consumers eligible for Lifeline Services in the State of Nebraska were being provided such services.²⁵ Infiniti Mobile believes that the Company's advertising and outreach efforts detailed above will inform consumers of the availability of Lifeline service in a manner that will result in significantly higher participation by qualified consumers than has been the case in the past.

E. Infiniti Mobile Requests Designation Throughout Its Service Area in Nebraska

Infiniti Mobile is not a rural telephone company as defined in Section 153(37) of the Act (47 U.S.C. § 153(37)). Accordingly, Infiniti Mobile is required to describe the geographic area(s) within which the Company requests designation as an ETC. Infiniti Mobile requests designation

²⁴ See attached Exhibit 5 for sample advertisements currently utilized by the Company in Oklahoma. Upon designation as an ETC in Nebraska, the Company will amend all advertising materials to include all required, state-specific language.

²⁵ See attached Exhibit 6, 2011 Lifeline Participation Rates by State, which was obtained from USAC, an independent not-for-profit corporation designated as the administrator of the federal Universal Service Fund by the FCC. USAC administers USF programs for high-cost companies serving rural areas, low-income consumers, rural health care providers, and schools and libraries.

as an ETC throughout the non-rural and rural service areas identified in Exhibit 7 attached hereto. Infiniti Mobile understands that its service area overlaps with rural carriers in Nebraska, but maintains that the public interest factors described below justify the Company's designation in these carriers' service areas, especially because Infiniti Mobile seeks ETC designation solely to utilize USF funding to provide Lifeline and NTAP service to qualified low-income consumers. The Company does not seek, and will not accept, high-cost support.

F. Service Commitment Throughout the Proposed Designated Service Area

Infiniti Mobile provides service in Nebraska by reselling service, which the Company obtains from its underlying facilities-based providers, Sprint, Verizon, and T-Mobile. The providers' networks are operational and largely built out. Thus, Infiniti Mobile will be able to commence offering the Company's Lifeline service to all locations served by its underlying carriers very soon after receiving approval from the Commission. Infiniti Mobile commits to comply with the service requirements applicable to the support that the Company receives.²⁶

Further, Infiniti Mobile is able to and commits to continuously provide the supported services throughout its designated service area in accordance with Section 009.02A4 of the Commission's Rules. In the unlikely event that Sprint, Verizon, or T-Mobile were to cease network operations throughout the designated service area, the Company would enter into a resale agreement with other succeeding wireless carrier(s) in order to maintain continuity of service. In accordance with Section 009.02A5 of the Commission's Rules, Infiniti Mobile also commits to provide service throughout its designated service area to all eligible customers who make a reasonable request for service.

²⁶ See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a)(1)(i); see also Section 009.01 of the Commission's Rules.

G. Five-Year Network Improvement Plan

As set forth in the *Lifeline and Link Up Reform Order*, a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of the carrier's application for designation as an ETC.²⁷

H. Ability to Remain Functional in Emergency Situations

In accordance with 47 C.F.R. § 54.202(a)(2), Infiniti Mobile has the ability to remain functional in emergency situations. Through the Company's agreements with its underlying carriers, Infiniti Mobile provides to its customers the same ability to remain functional in emergency situations as currently provided by Sprint, Verizon, and T-Mobile to their own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, the ability to reroute traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

I. Commitment to Consumer Protection and Service Quality

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.²⁸ The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. Specifically, Infiniti Mobile commits to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

J. Local Usage Requirement

An applicant for ETC designation is no longer required to demonstrate that it offers a local usage plan that is "comparable" to the plan offered by the ILEC in the relevant service

²⁷ See *Lifeline and Link Up Reform Order* at ¶ 386.

²⁸ See 47 C.F.R. § 54.202(a)(3).

territory.²⁹ Nevertheless, not only will the Company's offering be comparable to the underlying ILEC plans, but said offering will also exceed them in several respects. Infiniti Mobile will offer customers a certain amount of service free of charge. In contrast to the ILEC plans, which contain relatively small local calling areas, Infiniti Mobile customers can use these free minutes to place calls statewide (and even nationwide) because Infiniti Mobile does not constrict customers' use by imposing a local calling area requirement. Infiniti Mobile will also provide Lifeline customers with E911 capabilities and access to voice mail, caller I.D., and call-waiting services at no added cost. The very nature of the wireless phone—mobility—has a tremendous benefit to many consumers, a benefit to which a monetary value cannot be easily assigned.

K. Equal Access Requirement

The FCC's Rules no longer require an applicant for ETC status to acknowledge that the FCC may require such an applicant to provide equal access to long-distance carriers in the event that no other ETC is providing equal access within the service area.³⁰

L. Infiniti Mobile is Financially and Technically Capable

Infiniti Mobile is financially and technically capable of providing Lifeline-supported services.³¹ Infiniti Mobile has been in business since 2012, and the Company currently provides service to both Lifeline and non-Lifeline customers in the State of Oklahoma, where Infiniti Mobile already successfully provides wireless services. Infiniti Mobile has not been subject to enforcement action or ETC revocation proceedings in any state. Infiniti Mobile is financially able to provide Lifeline-supported services; the Company does not offer exclusively Lifeline-supported services—and the Company is therefore not exclusively dependent on USAC

²⁹ See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a).

³⁰ See *id.*

³¹ See *id.* at ¶ 387.

for its revenue.³² Infiniti Mobile is fully capable of honoring all of the Company's service obligations to customers as well as the Company's regulatory obligations to state and federal regulators. Furthermore, the senior management of Infiniti Mobile has great depth in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to the Company.³³ Infiniti Mobile will be providing resold wireless service, and therefore the Company will also rely upon the managerial and technical expertise of its underlying carriers, Sprint, Verizon, and T-Mobile.

M. Infiniti Mobile Will Comply with Certification and Verification Requirements

Section 54.410 of the FCC's Rules requires ETCs to certify and verify a Lifeline customer's initial and continued eligibility. Infiniti Mobile will certify and verify consumer eligibility in accordance with the FCC's requirements, with applicable Commission rules, and in accordance with the Company's FCC-Approved Compliance Plan, which outlines how the Company will comply with the requirements set forth in the *Lifeline and Link Up Reform Order*.

N. Infiniti Mobile Will Comply With Regulations Imposed By The Commission

By this Application, Infiniti Mobile hereby asserts the Company's willingness and ability to comply with the rules and regulations that the Commission may lawfully impose upon the Company's provision of service contemplated by this Application. Upon Commission request, Infiniti Mobile is prepared to answer questions or present additional testimony and other evidence about its services within the state. Infiniti Mobile commits that one hundred percent (100%) of federal universal service funds will flow through directly to the Company's Lifeline customers.

³² At this time, the Company does not intend to offer non-Lifeline, retail plans in the State of Nebraska and will independently petition the Commission for such authority should it prospectively wish to offer such fee-based, retail plans to the non-Lifeline consumer public.

³³ See Exhibit 8 for key management bios.

1. Nebraska ETC Designation

By this Application, Infiniti Mobile also requests designation as a Nebraska ETC for purposes of participating in the NTAP program. In accordance with NETC Rules 004.04A and 004.04B, Infiniti Mobile commits to comply with Section 006 of the NETC Rules to the extent such rules are applicable to the Company as a prepaid wireless provider. Infiniti Mobile commits to offer NTAP services in compliance with the Commission's orders, rules, and regulations regarding NTAP, including the requirement to use only the Commission's NTAP application form, requirements regarding additions and removals of NTAP subscribers from the NTAP program and the semiannual reporting of NTAP customer lists. Infiniti Mobile further commits to comply with the requirements recently adopted in the FCC's *Lifeline and Link Up Reform Order* to annually verify the eligibility of each of its NTAP subscribers in cooperation with the NTAP Department of the Commission.³⁴

V. DESIGNATION OF INFINITI MOBILE AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is "to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies" to all citizens, regardless of geographic location or income.³⁵ Designation of Infiniti Mobile as an ETC in Nebraska will further the public interest by providing Nebraska consumers, especially low-income consumers, with low prices and high-quality services. Many low-income customers in Nebraska have yet to reap the full benefits of the intensely competitive wireless market. Whether because of financial constraints, poor credit history, or intermittent employment, these

³⁴ See *Lifeline and Link Up Reform Order* at pages 240-42.

³⁵ *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

consumers often lack the countless choices available to most consumers.

The instant request for ETC designation must be examined in light of the Act's goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. Given this context as well as the Company's affordable and attractive service offering, designating Infiniti Mobile as an ETC would significantly benefit low-income consumers eligible for Lifeline service in the State of Nebraska—the intended beneficiaries of universal service.

A. Advantages of Infiniti Mobile's Service Offering

The public interest benefits of the Company's wireless service include larger local calling areas (as compared to traditional wireline carriers); the convenience and security afforded by mobile telephone service; the opportunity for customers to control cost by receiving a preset amount of monthly airtime at no charge; the ability to purchase additional usage at flexible and affordable amounts in the event that included usage has been exhausted; 911 service; and, where available, E911 service in accordance with current FCC requirements. The Company's Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Company customers. Infiniti Mobile's Lifeline rate plans will allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber, without the burden of credit checks or contracts.

Infiniti Mobile's Lifeline program will provide low-income Nebraska residents with the convenience and security offered by wireless services—even if financial positions deteriorate. The Company's Lifeline service will allow those adversely impacted by the failing economy or

job loss to have access to wholly supported wireless service to assist in emergency situations, to facilitate job search efforts, and to maintain contact with family members.

It is also a commonly accepted fact that in today's market all consumers, including qualified Lifeline customers, view the portability and convenience of wireless service not as a luxury, but rather as a necessity. Mobile service allows children to reach their parents, wherever they may be; allows a person seeking employment the ability to be contacted by potential employers; and allows end users to contact emergency service providers, regardless of location. Providing Infiniti Mobile with the authority necessary to offer discounted Lifeline service to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

Moreover, grant of Infiniti Mobile's Application will serve the public interest by increasing the number of ETCs in the State of Nebraska. By granting ETC status to Infiniti Mobile, the Commission will enable Infiniti Mobile to increase the number of Nebraska residents receiving Lifeline support, thereby increasing the amount of USF money flowing into Nebraska. In sum, ETC designation in the State of Nebraska would enable Infiniti Mobile to provide all of the public benefits cited by the FCC in its analysis in the *Virgin Mobile Order*. Namely, Infiniti Mobile would provide "increased consumer choice, high-quality service offerings, and mobility,"³⁶ as well as the safety and security of effective 911 and E911 services.³⁷

B. The Benefits of Competitive Choice

The FCC has acknowledged the benefits to consumers of being able to choose from among a variety of telecommunications service providers for more than three decades.³⁸

³⁶ See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

³⁷ See *id.* at 3391 ¶ 23.

³⁸ See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

First, designation of Infiniti Mobile as an ETC will promote competition and innovation, spurring other carriers to target low-income consumers with service offerings tailored to their needs and to improve their existing networks to remain competitive, ultimately resulting in improved services to consumers. Second, designation of Infiniti Mobile as an ETC will help ensure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.³⁹ Third, introducing Infiniti Mobile into the market as an additional wireless ETC provider will afford low-income Nebraska residents a wider choice of providers and available services, while simultaneously enhancing the competitive marketplace as ETCs compete for a finite number of Lifeline-eligible customers. Finally, increasing the competitive marketplace of providers has the potential to effectively increase the penetration rate and to reduce the number of individuals not connected to the PSTN.

C. Impact on the Universal Service Fund

With respect to Lifeline, ETCs only receive support for customers that they obtain. The amount of support available to an eligible subscriber is exactly the same, whether the support is given through a company such as Infiniti Mobile or through the Incumbent LEC operating in the same service area. Infiniti Mobile will only increase the amount of USF Lifeline funding in situations where the Company obtains Lifeline customers not enrolled in another ETC’s Lifeline program. By implementing the safeguards set forth in the *Lifeline and Link-up Reform Order*, Infiniti Mobile will minimize the likelihood that its customers are not eligible or are receiving duplicative support, either individually or within their household. Significantly, the Company’s designation as an ETC will not increase the number of persons eligible for Lifeline support. Infiniti Mobile’s ability to increase the Lifeline participation rate of qualified

³⁹ See 47 U.S.C. § 254(b)(1).

low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service; thus, any incremental increases in Lifeline expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers. According to the FCC, “the additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest,” and “[a] new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance in the context of the Lifeline program outweighs the potential costs.”⁴⁰

VI. COMPLIANCE WITH THE THIRD REPORT AND ORDER, FURTHER REPORT AND ORDER, AND ORDER ON RECONSIDERATION

Infiniti Mobile hereby acknowledges that the FCC adopted its *Third Report and Order, Further Report and Order, and Order on Reconsideration* (hereinafter, *Third Report and Order*) on March 31, 2016.⁴¹ In part, the new *Third Report and Order* marks a considerable step forward with respect to creating a competitive Lifeline broadband program by allowing support for standalone fixed and mobile broadband services, establishing minimum service standards for such broadband and mobile voice services, and implementing a five and one-half year transition, during which the FCC will gradually increase mobile voice and data requirements and simultaneously decrease voice support levels. Moreover, the *Third Report and Order* takes steps to curb abuse in the Lifeline program by establishing the National Verifier, which transfers the responsibility of

⁴⁰ See *Petition of i-wireless, LLC for Forbearance from 47 U.S.C § 214(e)(1)(A)*, Order, FCC 10-117 (rel. June 25, 2010) at ¶ 19.

⁴¹ *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket No. 11-42, WC Docket No. 00-197, WC Docket No. 10-90, *Third Report and Order, Further Report and Order, and Order on Reconsideration*, FCC 16-38 (rel. Apr. 27, 2016) (hereinafter, “*Third Report and Order*”).

eligibility determination away from Lifeline providers, lowering costs of conducting verification, and reducing the risks of facing a verification-related enforcement action. The Company is aware of the compliance requirements set forth in the *Third Report and Order* and hereby commits to adhere to all obligations provided therein to the extent applicable to the Company in Nebraska.

VII. ANTI-DRUG ABUSE CERTIFICATION

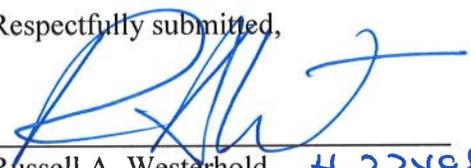
Infiniti Mobile certifies that no party to this Application is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

VIII. CONCLUSION

Based on the foregoing, designation of Infiniti Mobile as an ETC in the State of Nebraska accords with the requirements of Section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, Infiniti Mobile respectfully requests that the Commission promptly designate Infiniti Mobile as an ETC in the State of Nebraska.

Respectfully submitted,



Russell A. Westerhold #22498 NE
Fraser Stryker PC LLO
500 Energy Plaza, 409 South 17th Street
Omaha, NE 68102
(402) 978-5339 (Direct Dial)
(402) 341-8290 (Fax)
Email: rwesterhold@fraserstryker.com

And

Lance J.M. Steinhart
Lance J.M. Steinhart, P.C.
1725 Windward Concourse, Suite 150
Alpharetta, Georgia 30005
(770) 232-9200 (Phone)
(770) 232-9208 (Fax)
E-Mail: lsteinhart@telecomcounsel.com
Attorneys for IM Telecom, LLC
d/b/a Infiniti Mobile

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