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SMITH + MALEK  
ATTORNEYS

CAITLIN E. O'BRIEN  
caitlin@smithmalek.com  
208.215.2411  
Admitted in Idaho and Washington

December 18, 2018

*Via web portal*

Mark L. Johnson  
Executive Director/Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive, S.W.  
P.O. Box 47250  
Olympia, Washington 98504

Re: *Newmax, LLC dba Intermax Networks Amended Petition for Designation as a High Cost Eligible Telecommunications Carrier.*

Dear Mr. Johnson,

Newmax, LLC dba Intermax Networks ("Intermax") files the enclosed Amended Petition for Expedited Designation as a High Cost Eligible Telecommunications Carrier within certain areas of Washington.

Please contact the undersigned if you have any questions regarding this submission.

Respectfully submitted,



Caitlin O'Brien  
Smith + Malek, PLLC  
Counsel for Newmax, LLC dba Intermax Networks

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

_____	)	
In the Matter of Petition of	)	
	)	
Newmax, LLC dba Intermax Networks	)	<b>Docket No-UT-180890</b>
For Expedited Grant of a Designation as a High-Cost	)	
Eligible Telecommunications Carrier Within Certain	)	
Areas in Washington	)	
_____	)	

**AMENDED PETITION**

**I. INTRODUCTION**

Newmax, LLC dba Intermax Networks (“Intermax” or “Petitioner”), through their undersigned counsel, respectfully submits this Petition for expedited designation as an Eligible Telecommunications Carrier (“ETC”) to the Washington Utilities and Transportation Commission (“Commission”) pursuant to 47 U.S.C. § 214(e)(2) of the Communications Act of 1934, as amended (the “Act”) and Part 54, Subpart C of the Rules of the Federal Communications Commission (“FCC”), and Chapter 480-123-030 through 040. Intermax seeks designation throughout Spokane County, Washington (the “Designated Service Area”), for the purpose of receiving federal support for deploying local exchange and long distance services, wireless, VoIP, and data in high-cost areas from the FCC’s Connect America Fund Phase II Auction (Auction 903) (the “CAF II Auction”). In the Public Notice issued upon the close of the CAF II Auction on August 28, 2018 (the “Auction Results Notice”), the FCC identified Intermax as a winning bidder. However, Intermax’s receipt of the support is conditioned upon Intermax

obtaining designation as an ETC in the Census Block Groups pertinent to its bid by February 25, 2019.

Sections 214(e)(2) and 254 of Title 47 of the United States Code expressly authorize the Commission to designate a company that meets the requirements of 47 U.S.C. § 214(e)(1) - such as Intermax - as an ETC. Washington State law requires that the Commission “will approve a petition for designation as an ETC if the petition meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of universal service found in 47 U.S.C. § 254, and the designation is in the public interest.” As demonstrated in this Petition, Intermax meets all state and federal requirements for ETC designation, and, as shown by the description herein of Intermax’s planned voice and broadband deployment project, designating Intermax as an ETC in the proposed area would advance the goals of universal service and is in the public interest.

In support of this Petition, Intermax states as follows:

## **II. DESCRIPTION OF THE PETITIONER**

### **A. Newmax, LLC dba Intermax Networks**

Intermax is an Idaho corporation headquartered 7400 N. Mineral Drive, Ste 300 Coeur d’Alene, Idaho 83815 and is authorized to transact business in Washington state as a foreign corporation, UBI Number 603-395-096. Intermax has recently filed a registration as a competitive telecommunication company in Docket UT-180878 with the Washington Utilities and Transportation Commission. Intermax expects said registration to be effective on November 25, 2018.

Intermax is a facilities-based, locally-owned, independent internet, voice, data, and IT Managed Services provider in the Inland Northwest. Founded in 2001, the company is a leader in bringing broadband to areas historically underserved. Intermax began offering rural or microwave Internet access in order to provide Internet access to individuals in its service areas. Intermax's services have evolved to include regional fiber, LTE, and microwave networks in Kootenai, Bonner, Benewah, and Boundary counties, and they serve nearly 3,000 business and residential clients from southern Kootenai County to the Canadian border.

### **III. DESIGNATED CONTACTS**

Inquires or copies of any correspondence, order, or other materials pertaining to this Petition should be directed to:

Newmax, LLC dba Intermax Networks  
Mike Kennedy, President  
7400 N. Mineral Drive, Ste 300  
Coeur d'Alene, Idaho 83815

Copies of any pleadings or notices should be directed to:

Smith + Malek  
601 E. Front Ave., Ste 304  
Coeur d'Alene, Idaho 83814

### **IV. DESIGNATED SERVICE AREA AND MAP**

Intermax was recently a winning bidder in the Connect America Fund II Auction for the area of Spokane County, Washington. As part of post-auction procedures set out by the FCC, Intermax is required to obtain high-cost ETC designation within all areas where it has been named the winning bidder. Intermax is hereby seeking such a high-cost designation from the Commission. Intermax is seeking a designation that mirrors the area where it has been named

the winning bidder. Intermax is not seeking statewide authority, it is seeking a high-cost ETC designation that is narrowly tailored to the census blocks where is has been named as a winning bidder. A full list of the census blocks where Intermax has been named the winning bidder is attached as Exhibit A.

Intermax is submitting a map of Intermax's proposed service area as Exhibit B.

## **V. NEED FOR EXPEDITED ETC DESIGNATION**

Winning bidders must, within 180 days of being announced as winning bidders, obtain ETC designation in any areas for which they are awarded support and submit appropriate documentation of such ETC status to the FCC.<sup>1</sup> The amount of time that Intermax has to obtain a designation is quite short. Failure to obtain a designation could mean loss of funding and forfeiture of a winning bid. Therefore, Intermax is respectfully requesting that the Commission review this Application promptly and grant Intermax the ETC designations in the Census Blocks identified in Exhibit A, on an expedited basis.

## **VI. INTERMAX MEETS THE APPLICABLE REQUIREMENTS FOR ETC DESIGNATION**

Intermax meets all applicable requirements for ETC designation as established under federal law and rules of the FCC, including 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201, et seq., and the WAC 480-123-030.

### **A. General Network Overview**

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<sup>1</sup> See 47 CFR 55.310(e)(1), 54.315(b)(S); see also *Auction 903 Procedures Public Notice*, 33 FCC Rcd 7428, 1473 ("the [FCC] decided that an applicant need not be an ETC as of the initial short-form application filing deadline for Auction 903, but that it must obtain a high-cost ETC designation for the areas covered by its winning bids within 180 days after being announced as a winning bidder"); *Auction 903 Results Notice*, DA 18-887, para.34.

The Intermax broadband network will provide dedicated access to customer's home, business or other service locations in the service area. Intermax is a facilities-based, locally-owned, independent internet, voice, data, and IT Managed Services provider in the Inland Northwest. Intermax has provided additional details of its broadband network in its confidential FCC long form application which was previously filed with the Commission.

**B. ETC and CAF Service Obligations**

In accordance with the ETC requirements set out in Section 54.101 of the FCC rules, Intermax will provide internet access services that will have the capability to transmit data to and receive data by regional fiber, LTE and microwave networks from all or substantially all Internet endpoints, including capabilities that are incidental to and enable the operation the communications services. In compliance with the Connect America Fund ("CAF") Phase II Public Interest Obligations, Intermax will offer broadband services with latency suitable for real-time applications, including Voice over internet protocol and usage capacity that is reasonably comparable to comparable offerings in urban areas, at rates that are reasonably comparable to rates for comparable offerings in urban areas. Throughout the area of Intermax ETC designation, Intermax will offer broadband service at actual speeds of 25 Mbps downstream and 3 Mbps upstream. Intermax will also offer at least 150 GB download usage per month. Intermax also will meet 95 percent serviceability with round trip latency at or below 100 milliseconds.

Intermax also offers voice services using Voice over Internet Protocol ("VoIP") technology. Those services will be in compliance with Intermax's ETC obligations meaning that Intermax customers will have unlimited access to the public switched network or its functional

equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, and toll limitation services to qualify low-income consumers.

Intermax has customer protections in place to ensure the protection of customer proprietary network information and Intermax will comply with all industry standards for service quality.

### **C. Advertising Obligations**

Intermax will advertise the availability of its services supported by federal universal service mechanisms, including advertisement of applicable telephone assistance programs such as Lifeline, that is reasonably calculated to reach low-income consumers not receiving discounts and the charges therefore using media of general distribution in the area where it has an ETC designation. Intermax's sales and marketing efforts are focused on addressing the pain points typically experienced with competitors' offerings (i.e., low speeds, high monthly fees, data caps, and spotty service availability) through key messages that highlight our superior service quality, value, and support.

### **D. Ability to Function in Emergency Situations**

Intermax will have adequate amounts of back-up power to ensure functionality without an external power source, and Intermax maintains a redundant network backbone with redundant paths to the internet. Power outage protection is available at all sites by means of battery back-up for a minimum of 12 hours. Portable generator hook-ups are available for extended outage periods.

### **E. Plan of Investment**

Intermax will use CAF II Auction support to cover projected network buildout costs in order to provide service coverage and availability of high speed Internet service (25 Mbps Down/3 Mbps Up) and offer Voice (VoIP) services to the residents and businesses identified in CAF II Auction funded census blocks. Intermax has provided additional details of its Plan of Investment in its Confidential FCC Long Form application which, was previously filed with the Commission.

#### **F. Consumer Protection**

Intermax provides fixed wireless services, not mobile wireless. Therefore, some of the provisions of the Cellular Telecommunications and Internet Association's ("CTIA") Consumer Code for Wireless Service ("CTIA Code") are not applicable to Intermax. Intermax will comply with those portions of the CTIA Code which are applicable to fixed wireless services. Intermax will also comply with the applicable consumer protection and service quality standards of WAC chapter 480-120.

#### **VII. PUBLIC INTEREST CONSIDERATIONS**

Pursuant to WAC 480-123-040, the Commission "will approve a petition for designation as an ETC if the petition meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of universal service found in 47 U.S.C. § 254, and the designation is in the public interest." 47 U.S.C. § 214(e)(2), requires that designation be "in the public interest" only where multiple ETCs are designated for areas served by a rural telephone company, and otherwise requires only that designation meet the lower threshold of being "consistent with the public interest." Section 214(e)(2) states:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission.



Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

Granting Intermax's petition will serve the public interest through the deployment of broadband and voice services to unserved and underserved high-cost areas in Washington State, supporting investment in facilities and equipment, and expanding the number of competitive providers serving rural areas in Washington.

Granting Intermax's petition will serve the public interest through the deployment of broadband and voice services to underserved high-cost areas in Washington State, supporting investment in facilities and equipment, and expanding the number of competitive providers serving rural areas in Washington. Designation of Intermax as an ETC will permit the company to receive CAF II Auction funds, directly advancing the goals of the FCC's Connect America Fund and the CAF II Auction. The resulting deployments will bring expanded voice and broadband connectivity to rural areas in Washington and will close the digital divide for all individual including those in rural areas.

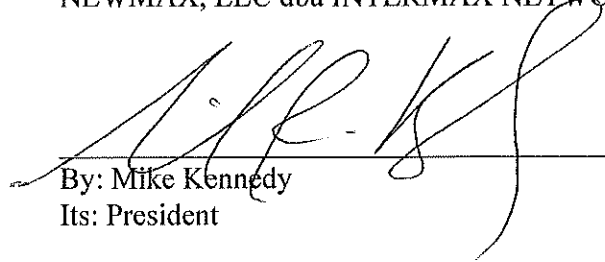
#### **VIII. CONCLUSION**

For the reasons stated herein, Intermax respectfully requests that the Commission expeditiously: (i) designate Intermax as an ETC in the Designated Service Area, (ii) send the appropriate notice of the Order designating Intermax as an ETC for the Designated Service Area to the FCC and the Universal Service Administrative Company; and (iii) order such other relief as may be appropriate.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 2nd day of November, 2018 at Coeur d'Alene, Idaho.

NEWMAX, LLC dba INTERMAX NETWORKS



By: Mike Kennedy  
Its: President