

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

**IM TELECOM, LLC D/B/A INFINITI MOBILE
FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER ON A
WIRELESS BASIS (LOW-INCOME ONLY)**

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AN ELIGIBLE TELECOMMUNICATIONS CARRIER ON A WIRELESS BASIS
(LOW-INCOME ONLY)**

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including the requirements outlined in the FCC's *USF/ICC Transformation Order*⁴ and *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 Infiniti Mobile to commence much-needed Lifeline service to low-income Washington residents as soon as possible. Accordingly, Infiniti Mobile respectfully requests that the Washington Utilities and Transportation Commission ("Commission") expeditiously approve this Petition for ETC designation.

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

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II. BACKGROUND

A. Company Overview

Infiniti Mobile is an Oklahoma Limited Liability Company, which is authorized to transact business in the State of Washington.⁶ Infiniti Mobile's principal office is located at

⁴ *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("*USF/ICC Transformation Order*").

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*").

⁶ Infiniti Mobile was organized in the State of Oklahoma on February 9, 2012.

1705 South Baltimore Ave., Tulsa, Oklahoma 74119. Infiniti Mobile is a reseller of commercial mobile radio service (“CMRS”) and provides prepaid wireless telecommunications services to consumers by using the Sprint Spectrum L.P. (“Sprint”) and Verizon Wireless (“Verizon”) networks. Infiniti Mobile obtains from Sprint and Verizon the network infrastructure and wireless transmission facilities to allow Infiniti Mobile to operate as a Mobile Virtual Network Operator (“MVNO”), similar to TracFone Wireless, Inc. (“TracFone”), and YourTel America Inc. (“YourTel”), who the Commission has designated as an ETC.⁷

Infiniti Mobile has been designated as an ETC in Oklahoma, Nevada, Wisconsin, Vermont, and Maryland. Infiniti Mobile currently has applications for ETC designation pending before the FCC for the federal default jurisdictions of Alabama, Connecticut, Delaware, Florida, Maine, New Hampshire, New York, North Carolina, Tennessee, Texas, the District of Columbia and Virginia; before the Georgia Public Service Commission, for designation in Georgia; 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 Kentucky Public Service Commission, for designation in Kentucky; before the Public Service Commission of the State of South Carolina, for designation in South Carolina; before the Nebraska Public Service Commission, for designation in Nebraska; before the Hawaii Public Utilities Commission, for designation in Hawaii; and before the Pennsylvania Public Utility Commission, for designation in the State of Pennsylvania.

⁷ *Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Washington for the Limited Purposes of Offering Lifeline and Link Up Service to Qualified Households, As Amended*, Order 03, Docket No. UT-093012 (June 24, 2010) (“*TracFone ETC Order*”); *Petition of YOURTEL AMERICA, INC. for an Exemption from WAC 480-123-030(1)(d), (f) and (g), and Designation as an Eligible Telecommunications Carrier*, Order 01, Docket No. UT-110423 (June 16, 2011) (“*YourTel ETC Order*”).

Infiniti Mobile's prepaid wireless services are affordable, easy-to-use, and attractive to low-income 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, family, and prospective employers. Infiniti Mobile offers consumers simple and prepaid calling plans free of cost, easy-to-use handsets, and high-quality customer service. Given Infiniti Mobile's pricing and marketing strategy, as well as the demographics of other, similar MVNOs' customers, Infiniti Mobile anticipates that many of Infiniti Mobile's 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. Furthermore, 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 Washington. Infiniti Mobile intends to be a leader in the prepaid marketplace by offering eligible consumers with exceptional value and competitive amounts of voice usage free of cost. Infiniti Mobile's Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other Infiniti Mobile wireless customers.

Attached hereto as Exhibit 2 is a summary of Infiniti Mobile's proposed Lifeline service offering in Washington.⁸ In addition to wholly supported voice services, prepaid Lifeline customers will also receive a free handset as well as voicemail, caller I.D., call-waiting, and 3-way calling 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 and Infiniti Mobile's Customer Service team are always free, regardless of service activation or availability of minutes. As Exhibit 2 demonstrates, Infiniti Mobile's Lifeline offering will allow eligible customers access to feature-rich mobile connectivity without the burden of undergoing a credit check or entering into a long-term contract. 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.

C. Plan Enrollment

Customers interested in obtaining information on the Lifeline program will be directed to an Infiniti Mobile telephone number and to Infiniti Mobile's website (<http://infinitimobile.com/>), which will contain information regarding Infiniti Mobile's Lifeline service plans, including a detailed description of the program and eligibility criteria. Customers may then request that an enrollment form be mailed to them, or customers can download a form from the Internet.

The certification form, a sample of which Infiniti Mobile proposes to utilize in the State of Washington, is attached hereto as Exhibit 3 and will explain in clear, easily understandable language that:

- (i) Lifeline is a federal benefit;
- (ii) Lifeline service is available for only one line per household;

⁸ Infiniti Mobile's full terms and conditions can be found on their website <http://infinitimobile.com/>.

- (iii) A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses;
- (iv) Households are not permitted to receive benefits from multiple providers;
- (v) That violation of the one-per-household requirement would constitute a violation of the Commission's rules and would result in the consumer's de-enrollment from the program, and potentially, prosecution by the United States government; and
- (vi) A Lifeline subscriber may not transfer his or her service to any other individual, including another eligible low-income consumer.
 - (i) Lifeline is a federal benefit;
 - (ii) Lifeline service is available for only one line per household;

Infiniti Mobile's certification form will also require all consumers, at sign up and annually thereafter, to provide the information and certifications, under penalty of perjury, required by revised 47 C.F.R. § 54.410(d).⁹ For more detailed enrollment information, *see* Exhibit 4. Infiniti Mobile will annually re-certify the continued eligibility of all of Infiniti Mobile's subscribers.

D. Prevention of Waste, Fraud and Abuse

Infiniti Mobile recognizes the importance of safeguarding the USF. Infiniti Mobile will utilize the Universal Service Administrative Company's ("USAC") National Lifeline Accountability Database ("NLAD") in Washington to add, enroll, edit, and de-enroll subscribers in its Lifeline program as well as work with the Department of Social and Health Services ("DSHS"), when necessary, to verify initial and ongoing consumer eligibility. Infiniti Mobile has also implemented the following 60-day non-usage policy in an effort to avoid waste, fraud, and abuse of the program.¹⁰ Infiniti Mobile will not seek reimbursement from the USF for

⁹ *See Lifeline and Link Up Reform Order* at 227–29.

¹⁰ Infiniti Mobile's Compliance Plan references disconnection following sixty (60) days of non-use, with a thirty (30) day notice period, pursuant to FCC regulations in effect at the time of the Compliance Plan approval, which currently remain in effect. However, Infiniti Mobile will operate under the non-use rules set forth in 47 C.F.R. § 54.405(e), as said rules may heretofore be amended. Therefore, pursuant to recent FCC rules changes, Infiniti Mobile will amend its non-use plan to a period of thirty (30) days of non-usage, subject to a fifteen (15) day notice period, by the later of December 1, 2016 or sixty (60) days following announcement of Office of Management and Budget ("OMB") approval pursuant to the Paperwork Reduction Act ("PRA").

inactive subscribers who have not used the service for a consecutive 60-day period.¹¹ 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 the deactivation that will result following non-usage in any 60-day period of time.¹² 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 Infiniti Mobile to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call from anyone other than Infiniti Mobile, its representative, or agent; or affirmatively responds to a direct contact from Infiniti Mobile confirming that he or she wants to continue.¹³ 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 who have been deactivated may participate in Infiniti Mobile's Lifeline service in the future by reapplying and re-establishing eligibility for such service.

To further protect the integrity of the USF, Infiniti Mobile has contracted with CGM, LLC, of Roswell, Georgia, a lifeline service bureau, to edit all subsidy request data. CGM will process and validate Infiniti Mobile's subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from Infiniti Mobile 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

¹¹ See *Lifeline and Link Up Reform Order* at ¶ 257.

¹² See *id.* at ¶ 257.

¹³ See *id.* at ¶ 261.

only for active lines. Through the processes described above, Infiniti Mobile ensures that Infiniti Mobile does not over-request from support funds.

III. THE COMMISSION HAS JURISDICTION TO DESIGNATE WIRELESS ETCs

Section 214(e)(2) of the Act (47 U.S.C. § 214(e)(2)) provides state public utility commissions with the “primary responsibility” for the designation of ETCs. 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.¹⁴ Therefore, the Commission has the authority to designate Infiniti Mobile as an ETC. Pursuant to this authority, the Commission has designated carriers as ETCs in the State of Washington, including many wireless carriers.¹⁵

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 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 granted forbearance from enforcement of this facilities requirement to carriers seeking Lifeline-only ETC designation.¹⁶ 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

¹⁴ See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858–59, ¶ 145 (1997) (“USF Order”).

¹⁵ See e.g., *In the Matter of the Petition of RCC Minnesota, Inc. d/b/a Cellular One for Designation as an Eligible Telecommunications Carrier, Order Granting Petition for Designation as an Eligible Telecommunications Carrier*, Docket No. UT-023033 (Aug. 14, 2002); see also *YourTel ETC Order*.

¹⁶ See *Lifeline and Link Up Reform Order* at ¶ 368.

determined to forbear from applying under subsection (a) of this section.” As such, Section 10(e) requires the Commission to act in accordance with the FCC’s grant of forbearance, and therefore, the Commission may not apply the facilities-based requirement to Infiniti Mobile. Therefore, the Commission has the authority to act under Section 214(e)(2) of the Act and to grant Infiniti Mobile’s request for designation as an ETC throughout its requested service area in the State of Washington.

A. The ETC Designation Request Is Consistent with Commission Precedent

Infiniti Mobile’s request for ETC designation to participate in the Lifeline program is consistent with the Commission’s decision designating TracFone and YourTel as ETCs.¹⁷ In these decisions, the Commission determined that designation of a prepaid wireless provider as an ETC would serve the public interest. Infiniti Mobile requests that the Commission expeditiously process its ETC Petition so that Infiniti Mobile can quickly commence providing qualifying low-income Washington customers with affordable USF-supported wireless services during these challenging economic times for state residents. Designation of Infiniti Mobile as an ETC would advance competition for wireless Lifeline services and would offer eligible consumers with an additional choice of a provider 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.¹⁸

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

¹⁷ See *id.*; see also *YourTel ETC Order*.

¹⁸ Infiniti Mobile currently proposes to offer Lifeline service to eligible customers free of cost; Infiniti Mobile anticipates that its decision to offer non-fee-based Lifeline offerings in the State of Washington will provide it with a significant competitive advantage in the Lifeline wireless market.

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.¹⁹ Section 214(e)(1) of the Act and Section 54.201(d) of the FCC’s Rules further provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either by using their own facilities or through 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.²⁰ 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 requires 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 Section 214(e)(1)(A) for carriers that are, or seek to become, Lifeline-only ETCs, subject to the following conditions:²¹

(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.

¹⁹ See *USF Order*, at 8858–59, ¶ 145.

²⁰ See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

²¹ See *Lifeline and Link Up Reform Order* at ¶¶ 368, 373, and 379.

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 with the FCC and received approval on August 8, 2012. A copy of Infiniti Mobile's FCC-Approved Compliance Plan is attached hereto as Exhibit 4. Infiniti Mobile commits to providing Lifeline service in Washington in accordance with said Compliance Plan.

B. Infiniti Mobile Is a Common Carrier

CMRS providers like Infiniti Mobile are treated as common carriers.²²

C. Infiniti Mobile Will Provide All Required Supported Services

Through its arrangements with Sprint and Verizon, Infiniti Mobile is able to provide all of the services and functionalities required by Sections 54.101(a) and 54.202(a) of the FCC's Rules (47 C.F.R. §§ 54.101(a) and 54.202(a)), 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 and Verizon.

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.²³

Infiniti Mobile offers rate plans that provide its customers with minutes of use for local service at no additional charge.

²² *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.")

3. Access to Emergency Services

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

4. Toll Limitation for Qualified Low-Income Customers

In its *Lifeline and Link Up Reform Order*, the FCC provided that toll limitation would no longer be deemed a supported service.²⁴ "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 distinguish between toll and non-toll calls."²⁵ Nonetheless, Infiniti Mobile's offering inherently allows Lifeline subscribers to control their usage, as its wireless services proposed in the State of Washington are offered on a prepaid basis.²⁶ 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

²³ See *In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision, 15 FCC Rcd 7331 (2002).

²⁴ See *Lifeline and Link Up Reform Order* at ¶ 367.

²⁵ See *id.* at ¶ 49.

²⁶ Infiniti Mobile's Lifeline plan offerings, as outlined in attached Exhibit 2, do not currently require the payment of a monthly invoice or bill. However, any additional airtime eligible customers should purchase are pre-paid in nature and will not become available until payment is received from said customers.

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 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. Infiniti Mobile’s advertising will comply with the requirements set forth in the *Lifeline and Link Up Reform Order*, as outlined in Infiniti Mobile’s FCC-Approved Compliance Plan.²⁷ Infiniti Mobile will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline service, using media for outreach including, but not limited to, telephone marketing, direct mailing, and face-to-face tent events. Infiniti Mobile will engage in advertising campaigns specifically targeted to reach those likely to qualify for Lifeline service, promoting the availability of cost-effective wireless services 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 Infiniti Mobile may partner with non-profit assistance organizations in order to inform customers of the availability of its Lifeline service.

In addition, Infiniti Mobile may utilize retail partners to help promote the availability of its Lifeline plans, especially those retail outlets frequented by low-income consumers. Infiniti Mobile will provide such retail vendors with signage to be displayed wherever Infiniti Mobile products are sold, and Infiniti Mobile will further provide such vendors with printed materials describing Infiniti Mobile’s Lifeline program.²⁸ Infiniti Mobile management believes that Infiniti Mobile’s advertising and outreach efforts detailed above will inform

²⁷ See Exhibit 4; see also *Lifeline and Link Up Reform Order* at Section VII.F.

²⁸ See attached Exhibit 5 for sample advertisements, currently utilized by Infiniti Mobile in the State of Oklahoma. Upon designation as an ETC in the State of Washington, Infiniti Mobile will modify such advertising to incorporate all state- and program-specific language that is and should become required by the Commission.

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 Washington

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 it requests designation as an ETC. Infiniti Mobile requests designation as an ETC that is statewide in scope, subject to the existence of its underlying carriers' facilities and corresponding coverage.²⁹ Infiniti Mobile understands that its service area may overlap with rural carriers in Washington, but maintains that the public interest factors described below justify its designation in these carriers' service areas, especially because Infiniti Mobile seeks ETC designation solely to utilize USF funding to provide Lifeline service to qualified low-income consumers. Infiniti Mobile does not seek, and will not accept, high-cost support.

F. Service Commitment Throughout the Proposed Designated Service Area

Infiniti Mobile provides service in Washington by reselling service, which it obtains from its underlying facilities-based providers, Sprint and Verizon. The providers' networks are operational and largely built out. Thus, Infiniti Mobile will be able to commence offering its 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 Infiniti Mobile receives.³⁰

²⁹ A list of wire centers in which Infiniti Mobile requests ETC designation is attached hereto as Exhibit 6.

³⁰ See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a)(1)(i).

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 its application for designation as an ETC.³¹

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 its arrangements with its underlying carriers, Infiniti Mobile provides to its customers the same ability to remain functional in emergency situations as currently provided by Sprint and Verizon 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 current FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.³² Infiniti Mobile 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

³¹ See *Lifeline and Link Up Reform Order* at ¶ 386.

³² See 47 C.F.R. § 54.202(a)(3).

territory.³³ Nevertheless, not only will Infiniti Mobile's offering be comparable to the underlying ILEC plans, but Infiniti Mobile's offering will also exceed them in several respects. Infiniti Mobile will offer customers a certain amount of service free of charge, per month. 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., call-waiting, and 3-way calling services at no 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

FCC Rules no longer require an applicant for ETC designation to provide a certification that acknowledges that the FCC may require such an applicant to provide equal access to long-distance carriers in the event no other ETC provides equal access within the service area.³⁴

L. Infiniti Mobile is Financially and Technically Capable

Infiniti Mobile is financially and technically capable of providing Lifeline-supported services.³⁵ Infiniti Mobile has been in business since 2012 and currently provides service to both Lifeline and non-Lifeline customers in the State of Oklahoma. Infiniti Mobile already successfully provides wireless services in Oklahoma. 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; Infiniti Mobile does not, and does not intend to, offer

³³ See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a).

³⁴ See *id.*

³⁵ See *id.* at ¶ 387.

exclusively Lifeline-supported services in every jurisdiction where it has been or will be designated as an ETC—and Infiniti Mobile is therefore not exclusively dependent on USAC for its revenue. The result of Infiniti Mobile’s efforts is that Infiniti Mobile is profitable, liquid, and fully capable of honoring all of its service obligations to customers and regulatory obligations to state and federal regulators.³⁶ Furthermore, the senior management of Infiniti Mobile has great depth in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to Infiniti Mobile.³⁷ Infiniti Mobile will be providing resold wireless service, and therefore Infiniti Mobile will also rely upon the managerial and technical expertise of its underlying carriers.

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 and in accordance with its FCC-Approved Compliance Plan, which outlines how Infiniti Mobile will comply with the requirements set forth in the *Lifeline and Link Up Reform Order*. In addition to requiring customers to self-certify eligibility, Infiniti Mobile will work with DSHS to verify initial and ongoing consumer eligibility. Infiniti Mobile will participate in and cooperate with the Commission and DSHS to implement additional customer verification measures as necessary.

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

By this Petition, Infiniti Mobile hereby asserts its willingness to comply with all the rules and regulations that the Commission may lawfully impose upon Infiniti Mobile’s provision of

³⁶ See Exhibit 7 for Infiniti Mobile’s financial information, which is CONFIDENTIAL PER WAC 480-07-160.

³⁷ See Exhibit 8 for key management bios.

wireless Lifeline service contemplated by this Petition. Infiniti Mobile commits that one-hundred percent (100%) of federal universal service funds will flow through directly to its Lifeline customers.

Infiniti Mobile will cooperate with the Washington State Enhanced 911 Program (E911) and all Public Safety Answering Points on E911 issues and shall, upon request, designate a representative to serve as a member or alternate member of the Washington State E911 Advisory Committee or its Communications Sub-committee. Infiniti Mobile will also participate in the Washington State E911 Program's "What's Your Location" public information campaign if the E911 Program requests the participation of wireless carriers, and is willing to collaborate with the Washington State E911 Program to test the compatibility of its handsets with the new Emergency Service Information Network in Washington, including supplying handsets representative of Infiniti Mobile's proprietary software and technical assistance should call delivery discrepancies be discovered.

O. Infiniti Mobile Requests Exemption from Certain Provisions of WAC 480-123-030

Infiniti Mobile requests that the Commission exempt Infiniti Mobile from the ETC petition requirements set forth in WAC 480-123-030(1)(d), (f), and (g). First, subsection (d) requires ETCs to provide a substantive plan of the investments it will make using USF funds. This requirement applies to carriers that seek high-cost support to fund investments to their networks; however, Infiniti Mobile seeks ETC designation solely for purposes of reimbursement for provision of subsidized low-income support services to eligible customers. Therefore, Infiniti Mobile has no basis for filing an investment plan and should be held to be exempt from the requirement.

Second, subsection (f) requires wireless carriers to provide a map in “.shp” format of proposed service areas (exchanges) with existing and planned locations of cell sites and shading to indicate where the carrier provides and plans to provide commercial mobile radio service signals. Infiniti Mobile neither owns, controls, nor plans to develop cell sites, and Infiniti Mobile’s coverage area encompasses that of its underlying carriers’ coverage area in Washington. Infiniti Mobile does not have access to the underlying carriers’ lists of geographic service areas or maps of service area showing the location of cell sites, and Infiniti Mobile has been unable to attain network coverage maps from its underlying carrier due to non-disclosure agreements. Accordingly, Infiniti Mobile requests exemption from the requirement to provide coverage maps.

Finally, subsection (g) provides that a petition for ETC designation must contain information affirming that a company has the ability to remain functional in emergency situations, including information that demonstrates such company has at least four hours of backup battery power at each cell site, backup generators at each microwave hub, and at least five (5) hours of backup battery power and backup generators at each switch. As noted in Section IV.H of this Petition, Infiniti Mobile has the ability to remain functional in emergency situations through its underlying carriers, Sprint and Verizon. Infiniti Mobile does not own or operate any facilities, cell sites, or microwave hubs; thus, Infiniti Mobile should be exempt from the requirement that Infiniti Mobile demonstrate its backup battery power or generators.

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.³⁸ Designation of Infiniti Mobile as an ETC in Washington will further the public interest by providing Washington consumers, especially low-income consumers, with no-cost and higher-quality wireless services. Many low-income customers in Washington 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 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 and Infiniti Mobile's affordable service offerings, designating Infiniti Mobile as an ETC would benefit low-income consumers eligible for Lifeline service in the State of Washington.

A. Advantages of Infiniti Mobile's Service Offering

The public interest benefits of Infiniti Mobile'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; 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. Infiniti Mobile's Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Infiniti Mobile customers. Infiniti Mobile's Lifeline rate plans will allow feature-rich mobile connectivity for qualifying subscribers at no cost, and without the burden of credit checks or contracts.

³⁸ *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

Infiniti Mobile's Lifeline program will provide low-income Washington residents with the convenience and security offered by wireless services—even if such residents' financial position deteriorates. Low-income individuals can greatly benefit from the advantages offered by Infiniti Mobile's Lifeline service, allowing those adversely impacted by the economy or job loss to have access to wireless service to assist such individuals in emergencies, 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 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 provides end users with the ability 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 promotes the public interest.

Moreover, grant of Infiniti Mobile's Petition will serve the public interest by increasing the number of ETCs providing service in Washington. By granting ETC status to Infiniti Mobile, the Commission will enable Infiniti Mobile to increase the number of Washington residents receiving Lifeline support, thereby increasing the amount of USF money flowing into Washington. In sum, ETC designation in the State of Washington would enable Infiniti Mobile to provide all of the public benefits cited by the FCC in its analysis in its grants of ETC designation to Virgin Mobile USA, L.P. Namely, Infiniti Mobile would provide increased consumer choice,

high-quality service offerings, and mobility,³⁹ as well as the safety and security of effective 911 and E911 services.⁴⁰

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.⁴¹ First, designation of Infiniti Mobile as an ETC may 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 assure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.⁴² Third, introducing Infiniti Mobile into the market as an additional wireless ETC provider will afford low-income Washington residents a wider choice of providers and available services, while 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 increase the penetration rate and reduce the number of individuals not connected to the PSTN.

C. Impact on the Universal Service Fund

Infiniti Mobile’s request for designation as an ETC solely for Lifeline purposes would not unduly burden the USF or otherwise reduce the amount of funding available to other ETCs. With Lifeline, ETCs only receive support for customers they obtain. The amount of support

³⁹ See *Telecommunications Carriers Eligible for Universal Service Support; Virgin Mobile USA, L.P. Petitions for Designation as an Eligible Telecommunications Carrier in the State of Alabama et al.*, WC Dkt. No. 09-197, Order, 25 FCC Rcd 17797 (2010) (“*Virgin Mobile Order*”).

⁴⁰ See *id.* at 3391 ¶ 23.

⁴¹ See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

⁴² See 47 U.S.C. § 254(b)(1).

available to an eligible subscriber is 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 it 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, individually or within their household.

Significantly, Infiniti Mobile'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 low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service, and 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."⁴³

VI. ANTI-DRUG ABUSE CERTIFICATION

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

⁴³ 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.

VII. 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, 2016.⁴⁴ In part, the new *Third Report and Order* makes a considerable step forward with respect to creating a competitive Lifeline broadband program by allowing support for standalone, fixed, and mobile broadband service; establishing minimum service standards for such broadband and mobile voice services; and implementing a five-and-one-half (5 ½) year transition period, during which time the FCC will gradually increase mobile voice and data requirements and simultaneously decrease support levels for standalone, voice service. Moreover, the *Third Report and Order* takes steps to curb abuse in the Lifeline program by establishing the National Lifeline Eligibility Verifier (“National Verifier”), which transfers the responsibility of eligibility determination away from Lifeline providers such as Infiniti Mobile, lowering the costs of conducting verification, and reducing the risks of facing a verification-related enforcement action. Infiniti Mobile 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 Infiniti Mobile in the State of Washington.

VIII. CONCLUSION

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

⁴⁴ 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*”).

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

Respectfully submitted,



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