

Agenda Date: May 9, 2024
Item: A1

Docket: UT-240072
Company: IM Telecom, LLC d/b/a Infiniti Mobile

Staff: Tim Zawislak, Regulatory Analyst
Sean Bennett, Acting Section Manager – Telecommunications

Recommendation:

Issue an order in Docket UT-240072:

1. Designating IM Telecom, LLC d/b/a Infiniti Mobile, as an Eligible Telecommunications Carrier for the purpose of receiving Lifeline support from the federal Universal Service Fund in service areas specified in Attachment 1 and subject to the conditions in Attachment 2; and,
2. Granting exemptions from Washington Administrative Code 480-123-030(1)(d), (f), and (g), which require the filing of a substantive investment plan, wireless network maps, and certification on backup power capabilities, respectively.

Background

On December 22, 2023, IM Telecom, LLC d/b/a Infiniti Mobile (Infiniti or Company) filed a petition with the Washington Utilities and Transportation Commission (Commission) requesting designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the Act), and Washington Administrative Code (WAC) 480-123-030. Infiniti seeks ETC designation in Washington for the purpose of receiving federal Low Income (Lifeline) support that subsidizes monthly charges for telecommunications service for qualified low-income households. Lifeline support is part of the Federal Universal Service Fund (FUSF). The Company is a reseller of facility based wireless service providers. Infiniti also requests an exemption from Washington Administrative Code 480-123-030(1)(d), (f), and (g), which require ETC applicants to file a substantive investment plan, wireless network maps, and certification on backup power capabilities.

On April 3, 2024, and April 19, 2024, Infiniti supplemented its petition to include letters of guarantee for both a) KonaTel, Inc. up to the first year of Infiniti's operations in Washington; and b) Excess Telecom, Inc. (ETI) when the acquisition of majority ownership occurs (or after Infiniti's first year of operations in Washington, whichever occurs first).

The proposed Lifeline rate plans comply with the Federal Communications Commission's (FCC's) minimum service standards. Infiniti's Plans also include:

- Partially subsidized phone or free SIM card
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free access to Voicemail, Caller-ID, and other calling features
- Voice minutes may be used for Domestic Long Distance at no extra cost
- Usage allowances and minimum service speed standards for data
- To extent devices are provided no separate tethering charge(s)

Customers can purchase additional voice minutes, data plans, and refill options that are sold through the Company’s website at <https://infinitimobile.com/>.

The details of Infiniti’s proposed prepaid rate plans are as follows:

	Plan 1	Plan 2	Plan 3 (Tribal only)
Data	1 GB	4.5 GB	6 GB
Voice Minutes	1,000	3,000	3,000
Text (SMS)	1,000	Unlimited	Unlimited
Retail Rate	\$20.00/month	\$30.00/month	\$35.00/month
Lifeline Subsidy	-\$5.25	-\$9.25	-34.25
Company Discount	-\$0.75	-\$0.75	-\$0.75
Net Cost to Lifeline Subscribers	\$14.00/month	\$20.00/month	\$0.00/month (Tribal)

Infiniti provides Lifeline service in 25 states (and in the territory of U.S. Virgin Islands) through commercial mobile radio service by reselling the network services of AT&T Mobility, Verizon Wireless, and T-Mobile USA, Inc.

Discussion

The Commission has jurisdiction over ETC petitions in Washington state. Section 214(e) of the Act authorizes state regulatory commissions to designate a qualified common carrier as an ETC for the purpose of receiving federal Universal Service Funds. Under WAC 480-123-040, the commission has authority to approve petitions from carriers requesting ETC designation. The commission’s authority to grant or deny petitions for ETC designation includes the authority to impose conditions.

Commission staff (Staff) finds that Infiniti should qualify for ETC designation with the proposed conditions in Attachment 2. Under 47 U.S.C. § 214(e)(2), state commissions may designate more than one carrier as an ETC in an area if such designation is “consistent with the public interest,

convenience, and necessity” and the carrier seeking designation as an ETC meets the following two requirements of 47 U.S.C. § 214(e)(1):

- (A) Offer the services that are supported by federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
- (B) Advertise the availability of such services and the charges therefore using media of general distribution.

Infiniti is a common carrier. The Company is capable of providing services supported by federal universal service mechanisms, as defined in 47 C.F.R. § 54.101(a) by reselling its underlying network carrier's services. Based on the FCC's Lifeline and Link Up Reform Order, the Federal Communications Commission (FCC) forbears from applying the Act's facilities-based requirement to all carriers that seek limited ETC designation to participate in the Lifeline program on the condition that the FCC's Wireline Competition Bureau approves such ETC applicant's Compliance Plan. The Compliance Plan must demonstrate the ETC applicant's commitment to fight waste, fraud, and abuse in the Lifeline program and describe its adherence to the revised federal Lifeline rules. Infiniti has met the forbearance condition.

The Company's initial Compliance Plan was approved by the FCC on August 8, 2012. Then, on March 8, 2018, Infiniti filed an *Amended Compliance Plan* to reflect the KonaTel, Inc. transaction as well as other updates due to the passage of time. The FCC approved the Amended Compliance Plan on October 23, 2018. Due to another more recent transaction with ETI mentioned above, the Company has filed a *Second Amended Compliance Plan* currently pending before the FCC. This more recent transaction is described in the Company's April 3, 2024, response to Staff's information requests (*see Exhibit C for the SEC Form 8-K and Purchase Agreement dated January 22, 2024*).¹ The Company will continue to offer the federally supported Lifeline services and commits that it will advertise the availability of those Lifeline services.

The Company meets the requirements of the Washington rule on ETC designation, WAC 480-123-030; except subsections (1)(d), (f) and (g):

- WAC 480-123-030(1)(d) requires an ETC petitioner to provide a “substantive plan of the investments to be made with initial federal support during the first two years in which support is received and a substantive description of how those expenditures will benefit customers.” Infiniti requests an exemption from the requirement because the company seeks only Lifeline support, not federal High-Cost support. It does not have an obligation to use federal USF for infrastructure investment.

¹ They filed their responses to Staff's information requests in this [docket](#) on April 3, 2024.

- WAC 480-123-030(1)(f) requires a wireless ETC petitioner 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 requests an exemption because it does not have access to its underlying carriers’ maps.
- WAC 480-123-030(1)(g) requires a wireless ETC to have “at least four hours of back up battery power at each cell site, backup generators at each microwave hub, and at least five hours back up battery power and backup generators at each switch.” Infiniti requests an exemption because it does not have control over its underlying carriers’ emergency power back up facilities.

Staff supports the Company’s request for exemptions from the three requirements under WAC 480-123-030 listed above. Granting the request is consistent with the public interest, the purposes underlying regulation, and applicable statutes. The Commission granted these exemptions in its orders designating Lifeline-only ETCs such as Boomerang, TracFone Wireless, Inc., Sage Telecom, and Air Voice Wireless.

Staff reviewed the Company’s technical and financial capabilities to provide the supported Lifeline service and carefully considered relevant factors suggested in the FCC’s Lifeline and Link Up Reform Order. Based on the Company’s operational history and updated Company financial statements and letters of guarantee, Staff concludes that the Company is technically and financially capable of providing the supported Lifeline service in compliance with the low-income program rules.

The FCC’s National Lifeline Accountability Database and the National Lifeline Eligibility Database (aka the National Verifier or NV) are fully functional. As such, Staff recommends that the Commission set conditions consistent with its most recent Orders designating Sage and Air Voice as ETCs.

Staff emphasizes that Infiniti must strictly comply with its commitments in the Compliance Plan reviewed and approved by the FCC. Deviation from its Compliance Plan would forfeit the forbearance from the own-facilities requirements granted by the FCC, consequently not meeting the qualification for ETC designation from this Commission. The Commission may revoke, suspend, or modify a designation subject to the provisions in WAC 480-123-050.

Staff believes that designating Infiniti as a Lifeline-only ETC will deliver benefits and additional choices to low-income households in Washington and is therefore in the public interest.

Conclusion

Staff recommends the Commission a.) enter an order designating IM Telecom, LLC d/b/a Infiniti Mobile as an Eligible Telecommunications Carrier for the purpose of receiving Lifeline support from the Federal Universal Service Fund in the service areas specified in Attachment 1; and,

Docket UT-240072

May 9, 2024

Page 5

subject to the conditions specified in Attachment 2. In addition, Staff recommends that the Commission also b.) grant exemptions from 480-123-030 (1)(d), (f) and (g).

Attachments (2)