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UT-240072

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April 3, 2024

VIA E-FILING

Jeff Killip, Executive Director and Secretary
State of Washington
Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

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

Dear Mr. Killip:

Attached please find for filing IM Telecom, LLC d/b/a Infiniti Mobile's Responses to Staff's Initial Set of Information Requests.

If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me. Thank you.

Respectfully submitted,

/s/ Lance J.M. Steinhart

Lance Steinhart, Esq.
Managing Attorney
Lance J.M. Steinhart, P.C.
Attorneys for IM Telecom, LLC d/b/a Infiniti Mobile

Attachments

- As of March 1, 2024, what other states has IM Telecom, LLC (dba Infiniti Mobile) requested ETC Designation for?

See answer to #2 below.

- Please describe the status of Infiniti Mobile in every state as of March 1, 2024.

Since the filing of this Petition, Infiniti Mobile has received approvals from Alabama, Colorado, Michigan, Missouri, Rhode Island, Tennessee, and West Virginia, and is on schedule to be approved by April 30 in Indiana, Louisiana, Mississippi, Nebraska, North Dakota, Ohio, Utah, and USVI.

Infiniti Mobile's Pending ETC Petitions	Docket Number	Date Filed	Rural/ Non-Rural	Tribal/ Non-Tribal	Status
Alaska	TR2400114	1/2/2024	Both	Both	Commission to issue final order by 6/28/24
Arizona	T-20951A-24-0016	1/11/2024	Both	Both	DR1 filed 2/20/24
Arkansas	24-001-U	1/3/2024	Both	Non-Tribal	DR1 filed 2/26/24
Hawaii	2024-0018	1/23/2024	Both	Both	Statement of position filed by CA 2/12/24
Idaho	IMT-T-23-01	12/15/2023	Both	Both	Comments due by 3/25/24
Illinois	24-0047	1/23/2024	Both	Non-Tribal	Hearing continued until 4/10/24 DR1 filed 3/15/24
Indiana	41052 - ETC 100	1/24/2024	Both	Non-Tribal	Hearing scheduled for 3/26/24
Iowa	ETA-2024-0001	1/4/2024	Both	Both	DR filed 1/15/24
Kansas	24-IMTT-515-ETC	1/23/2024	Both	Both	Assigned to Steve Garrett, Deputy Chief
Louisiana	S-37089	12/28/2023	Both	Both	Staff Rec of Approval 3/6/24 Should be on B&E session for approval on 3/27/24
Massachusetts	24-1	1/3/2024	Both	Both	DR1 filed 3/13/24
Minnesota	24-66	1/2/2024	Both	Both	DR filed 3/8/24 DR1 filed 3/7/24
Mississippi	2024-UA-12	1/25/2024	Both	Both	Should be on 4/2/24 agenda for approval
Montana	2024.01.012	1/5/2024	Both	Both	Waiting on DR DR filed 3/18/24
Nebraska	C-5553/NUSF-140	1/8/2024	Both	Both	Hearing week of 4/15/24
New Jersey	TE23120912-	12/19/2023	Both	Non-Tribal	DR1 received 3/13/24
North Dakota	PU-23-365	12/21/2023	Both	Both	Pre-scheduled informal date of 3/27/24 DR1 filed 2/16/24
Ohio	23-1174-TP-UNC	12/28/2023	Both	Non-Tribal	Possibly on April 3 or April 17 agenda for approval
South Dakota	TC24-003	1/17/2024	Both	Both	DR1 issued 2/9/24 and DUE 4/18/24
Utah	23-2644-01	12/15/2023	Both	Both	Hearing scheduled for 3/25/24
Virginia	PUR-2024-00005	1/8/2024	Both	Both	DR1 issued 3/15/24 and DUE 3/22/24
Washington	UT-240072	12/22/2023	Both	Both	DR1 issued 2/28/24 and DUE 3/29/24
USVI	698	2/19/2024	Both	Non-Tribal	Approved on 3/12/24 hearing, wait on final order

- How many Lifeline customers did the company have in each state as of December 31, 2023?

The below data is as of February 9, 2024.

CA 10,937
GA 3,250
KY 2,892
MD 252

NV	135
NY	10,171
OK	1,673
PA	1,699
SC	146
VT	81
WI	367

4. How many ACP customers did the company have in each state as of December 31, 2023?

The below data is as of February 9, 2024.

AL	25
AR	9
AZ	4
CA	4,713
CO	23
CT	16
DC	11
FL	168
GA	3,082
HI	1
IA	2
IL	27
IN	7
KS	8
KY	2,763
LA	7
MA	13
MD	244
MI	10
MN	12
MO	6
MS	7
MT	3
NC	28
ND	1
NE	2
NH	4
NJ	5

NM	2
NV	117
NY	9,572
OH	143
OK	1,242
OR	1
PA	1,651
PR	3
SC	138
SD	1
TN	7
TX	144
UT	1
VA	19
VT	88
WA	5
WI	339
WV	65

5. Have there been any subsequent changes to the company's approved FCC Amended Compliance Plan that supersede commitments that were previously made?
The Company is still operating under its approved Compliance Plan, but just filed a Second Amended Compliance Plan, attached hereto as Exhibit A, to reflect a transfer of ownership.
6. Will the company contribute to Washington's state and county 911 taxes?
Yes, the Company will contribute to all required taxes and fees, including 911.
7. Please list and compare all service tiers offered in Washington and California?
California provides \$19 in state reimbursement in addition to federal Lifeline support (this is in addition to reimbursement for devices provided of up to \$39 depending on subscriber), so naturally the Company's service offering is more robust in California; it would not make sense to compare such offering to the Company's offering in Washington, which reflects a \$9.25 reimbursement. The Company's proposed Lifeline offering in its Washington application matches what the Company offers in all other \$9.25 reimbursement states.
8. Please list and compare all prices for each service tier listed in 7. above?
Please see response to 7 above and 9 below.

9. Please provide an updated description of the company's proposed Lifeline offerings in Washington by including both a) the gross cost (pre-discount) to qualifying customers for each of the proposed rate plans, and b) the net cost (post-discount) to qualifying customers for each of the proposed rate plans?

	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)

10. Will the company allow Lifeline customers to apply the federal discount(s) to all other of the company's service offerings (if not, please explain)?

Yes.

11. Total Stockholders' Equity and Accumulated Deficit shown in in the financial statements attached to the petition reveals the following trend:

	Total Stockholders' Equity	Accumulated Deficit
January 1, 2021	\$ 1,532,834	\$ (5,968,490)
December 31, 2022	\$ 455,363	\$ (8,297,864)
September 30, 2023	\$(1,586,386)	\$(10,548,497)

- a. KonaTel, Inc. as the parent company of INFINITI MOBILE (a wholly owned subsidiary) is the consolidated companies' owner and operator, correct?
KonaTel was the 100% owner of Infiniti Mobile, until the recent transaction referred to below (KonaTel now owns 51% of Infiniti Mobile). KonaTel was the owners and operator. Excess Telecom, Inc. now owns 49% of Infiniti Mobile.

b. Please provide a letter of guarantee on behalf of KonaTel, Inc., guaranteeing the obligations of IM Telecom, LLC dba Infiniti Mobile for the State of Washington. **Please see attached Exhibit B for the letter of guarantee.**

c. Please explain what measures that are being taken by KonaTel, Inc. in order to improve its Total Stockholders' Equity over the next three years?

In February of 2024, Infiniti Mobile received an infusion of financial assistance, and access to managerial and technical resources from Excess Telecom, Inc. which has strengthened KonaTel's financial health, by eliminating its debt and contributing liquid resources. (See the FCC Form 8K which is included in Exhibit C and attached hereto).

Infiniti Mobile has successfully operated as a provider of wireless Lifeline service since 2012. Financial support for Infiniti Mobile's continued operations will be enhanced pursuant to the terms of an Agreement by and among IM Telecom, LLC d/b/a Infiniti Mobile, an Oklahoma limited liability company, KonaTel, Inc., a Delaware corporation (hereafter the "Seller"); and Excess Telecom, Inc., a Nevada corporation (hereinafter the "Buyer" or "Excess"), under which Buyer will purchase one hundred percent (100%) of the issued and outstanding membership ownership interests of Infiniti Mobile (the "Transaction"). In step one of the Transaction, Excess acquired forty nine percent (49%) of the membership ownership interests of Infiniti Mobile; step two of the Transaction is the purchase of the remaining fifty-one percent (51%) of the membership ownership interests of Infiniti Mobile upon obtaining any required regulatory approvals for the Transaction. Related to this transaction, the Second Amended Compliance Plan filed with the FCC is attached hereto as Exhibit A.

Excess was incorporated in 2013 and commenced offering resold wireless services in 2020. On March 19, 2015 (DA 15-348), the FCC International Bureau granted Excess Section 214 international authority to provide facilities-based service in accordance with section 63.18(e)(1) of the Commission's rules, and also to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules. Excess's principal offices are located at 3773 Howard Hughes Pkwy 590S, Las Vegas, NV 89169. Excess has established considerable financial, managerial and technical resources that will be available, as needed, to support Infiniti Mobile in its operations and continuing growth. Excess is authorized to provide CMRS throughout the United States and Puerto Rico and has been authorized to provide services by

the FCC and USAC under the Affordable Connectivity Program (“ACP”) (and previously the Emergency Broadband Benefit “EBB” program) in said jurisdictions. Excess currently has over 2,000,000 ACP subscribers, including approximately 40,000 ACP subscribers in the State of Washington.

EXHIBIT A

SECOND AMENDED COMPLIANCE PLAN

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March 13, 2024

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: IM Telecom, LLC d/b/a Infiniti Mobile's Second Amended Compliance Plan
WC Docket Nos. 09-197 and 11-42

Dear Ms. Dortch:

On August 8, 2012, the Wireline Competition Bureau ("Bureau") approved IM Telecom, LLC d/b/a Infiniti Mobile's ("IM Telecom" or the "Company") initial Compliance Plan¹ which outlined the measures IM Telecom would take to implement the conditions imposed by the Federal Communications Commission ("FCC" or the "Commission") in its 2012 Lifeline Reform Order.² IM Telecom filed an Amended Compliance Plan on March 8, 2018, which the Bureau approved on October 23, 2018,³ identifying a transfer of control and making revisions to comply with rule changes since the 2012 Lifeline Reform Order.

¹ *Wireline Competition Bureau Approves the Compliance Plans of Birch Communications, Boomerang Wireless, IM Telecom, Q Link Wireless, and TAG Mobile*, Public Notice, DA 12-1286 (rel. August 8, 2012).

² *See 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 Nos. 11-42 and 03-109, CC Docket No. 96-45, and WC Docket No. 12-23, Report and Order and Further Notice Of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012).

³ *Wireline Competition Bureau Approves the Wireless Compliance Plan of IM Telecom*, Public Notice, DA 18-1081 (rel. Oct. 23, 2018); *In Re Telecommunications Carriers Eligible for Universal Service Support, et al.*, Amended Compliance Plan of IM Telecom, LLC (filed March 8, 2018).

Marlene H. Dortch

March 13, 2024

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IM Telecom now seeks expedited approval of the enclosed Second Amended Compliance Plan to update the information provided due to the passage of time and to reflect a proposed change in ownership.

Change in Ownership

Pursuant to the terms of an Agreement by and among IM Telecom, LLC d/b/a Infiniti Mobile, an Oklahoma limited liability company, KonaTel, Inc., a Delaware corporation (hereafter the “Seller”); and Excess Telecom, Inc., a Nevada corporation (hereinafter the “Buyer” or “Excess”), Buyer will purchase one hundred percent (100%) of the issued and outstanding membership ownership interests of IM Telecom (the “Transaction”). In step one of the Transaction, Excess is acquiring forty nine percent (49%) of the membership ownership interests of IM Telecom; step two of the Transaction is the purchase of the remaining fifty-one percent (51%) of the membership ownership interests of IM Telecom upon obtaining any required regulatory approvals for the Transaction, including this Second Amended Compliance Plan. Excess’ ownership will enable IM Telecom to achieve measurable growth at the same time as it develops improved operating efficiencies, both necessary components for the Company to thrive. The Transaction will not result in any loss or impairment of service for any customer, and customers will continue to receive their existing services at the same or better rates, terms, and conditions currently in effect.

Respectfully submitted,

s/ Lance Steinhart

Lance J.M. Steinhart, Esq.

Managing Attorney

Lance J.M. Steinhart, P.C.

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

Enclosures

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of	
Telecommunications Carriers Eligible to Receive Universal Service Support	WC Docket No. 09-197
Lifeline and Link Up Reform and Modernization	WC Docket No. 11-42
IM Telecom, LLC d/b/a Infiniti Mobile	

**IM TELECOM, LLC D/B/A INFINITI MOBILE
SECOND AMENDED COMPLIANCE PLAN**

IM Telecom, LLC d/b/a Infiniti Mobile (“IM Telecom” or the “Company”),¹ through its undersigned counsel, hereby respectfully submits and requests expeditious approval of these revisions to its approved Compliance Plan (this “Second Amended Compliance Plan”) outlining the measures it will take to comply with the Federal Communications Commission’s (“Commission” or “FCC”) Lifeline rules and orders,² and reflecting a material change in

¹ Changes in the Company’s affiliates following a proposed change in ownership are discussed in Section III herein; upon consummation, the Company’s names and identifiers will remain the same.

² See *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 (Feb. 6, 2012) (“2012 Lifeline Reform Order”). See also *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71, ¶ 249 (rel. June 22, 2015) (Order on Reconsideration). The Company herein submits the information required by the Compliance Plan Public Notice. See also *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 12-314 (rel. Feb. 29, 2012) (Compliance Plan Public Notice). See *In the Matter of Lifeline and Link*

ownership. IM Telecom’s Compliance Plan was originally approved by the Wireline Competition Bureau (“Bureau”) on August 8, 2012.³ IM Telecom filed its Amended Compliance Plan on March 8, 2018, which the Bureau approved on October 23, 2018,⁴ identifying a transfer of control and making revisions to comply with rule changes since the 2012 Lifeline Reform Order. IM Telecom is currently designated as an eligible telecommunications carrier (“ETC”) to provide Lifeline services to low-income consumers on a wireless basis in California, Colorado, Georgia, Kentucky, Maryland, Missouri, Nevada, New York, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, West Virginia and Wisconsin.

IM Telecom files this Second Amended Compliance Plan to update the information provided due to the passage of time and to reflect a proposed change in ownership described in Section III below.

IM Telecom commends the Commission’s commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including Lifeline customers. IM Telecom complies with 911 requirements as described below and qualifies for blanket forbearance from the facilities requirement of section 214(e)(1)(A) of the Communications Act to participate as an ETC in the Lifeline program.⁵

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) (“*Third Report and Order*”).

³ *Wireline Competition Bureau Approves the Compliance Plans of Birch Communications, Boomerang Wireless, IM Telecom, Q Link Wireless, and TAG Mobile*, Public Notice, DA 12-1286 (rel. August 8, 2012).

⁴ *Wireline Competition Bureau Approves the Wireless Compliance Plan of IM Telecom*, Public Notice, DA 18-1081 (rel. Oct. 23, 2018); *In Re Telecommunications Carriers Eligible for Universal Service Support, et al.*, Amended Compliance Plan of IM Telecom, LLC (filed March 8, 2018).

⁵ See 2012 Lifeline Reform Order ¶ 368. Although IM Telecom qualifies for and seeks to avail itself of the Commission’s grant of forbearance from the facilities requirement of section

IM Telecom complies fully with all conditions set forth in the 2012 Lifeline Reform Order and Third Report and Order, as well as with the Commission's Lifeline rules and policies more generally.⁶ This Second Amended Compliance Plan describes the specific measures that the Company has implemented to achieve these objectives. Specifically, this Second Amended Compliance Plan: (1) describes in detail the measures that IM Telecom takes to implement the obligations contained in the Lifeline program rules and orders, including (a) the procedures the Company follows in enrolling a subscriber in Lifeline and submitting for reimbursement for that subscriber from the Low Income Fund and (b) materials related to initial and ongoing certifications and marketing materials; and (2) provides a detailed description of how IM Telecom offers Lifeline services, the geographic areas in which it offers services, and a detailed description of the Company's Lifeline service plan offerings.

ACCESS TO 911 AND E911 SERVICES⁷

Pursuant to the 2012 Lifeline Reform Order, forbearance is conditioned upon the Company: (1) providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes; and (2) providing its wireless Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of wireless Lifeline-eligible subscribers who obtain Lifeline-supported

214(e)(1)(A) for purposes of the federal Lifeline program, the Company reserves the right to demonstrate to a state public utilities commission that it provides service using its own facilities in a state for purposes of state universal service funding under state program rules and requirements. IM Telecom will follow the requirements of the Commission's Lifeline rules and this Compliance Plan in all states in which it provides Lifeline service and receives reimbursements from the federal Low-Income fund, including in any state where the public utilities commission determines that IM Telecom provides service using its own facilities for purposes of a state universal service program.

⁶ IM Telecom will update its associated Lifeline program forms and advertising, whenever necessary, to reflect Commission changes to the applicable Lifeline program rules.

⁷ See Compliance Plan Public Notice at 3.

services.⁸ The Company will provide its wireless Lifeline customers with access to 911 and E911 services immediately upon activation of service. The Commission and consumers are hereby assured that all IM Telecom customers will have available access to emergency calling services at the time that Lifeline voice telephony service is initiated, and that such 911 and E911 access will be available from Company handsets, even if the account associated with the handset has no minutes remaining.

IM Telecom's existing practices currently provide access to 911 and E911 services for all customers. IM Telecom currently uses T-Mobile, AT&T and Verizon as its underlying wireless network providers/carriers ("Underlying Carriers"). The Underlying Carriers route 911 calls from the Company's customers in the same manner as 911 calls from their own retail customers. To the extent that IM Telecom's Underlying Carriers are certified in a given PSAP territory, this 911 capability will function the same for the Company. IM Telecom also currently enables 911 emergency calling services for all properly activated handsets regardless of whether the account associated with the handset is active or suspended or has any remaining minutes.

E911-Compliant Handsets. IM Telecom's handsets used in connection with the wireless Lifeline service offering have always been and will continue to be 911 and E911-compliant. As a result, any existing IM Telecom wireless customer that qualifies for and elects Lifeline service will already have a 911/E911-compliant handset, which will be confirmed at the time of enrollment in the Lifeline program. To the extent IM Telecom offers handsets for use with its Lifeline service, any new customer that qualifies for and enrolls in IM Telecom's Lifeline voice telephony service is assured of receiving a 911/E911-compliant handset.

⁸ See 2012 Lifeline Reform Order ¶ 373.

To further obtain the benefits of a modernized Lifeline program, the Commission’s Third Report and Order also set forth the requirement that Lifeline providers providing both mobile broadband services and devices to their consumers provide handset devices that are Wi-Fi enabled.⁹ The Commission further requires such providers to offer the choice to Lifeline customers of devices that are equipped with hotspot functionality.¹⁰ To the extent IM Telecom offers devices for use with its Lifeline-supported broadband service, it commits to provide devices that meet the equipment requirements set forth in 47 C.F.R. § 54.408(f).

COMPLIANCE PLAN

I. PROCEDURES TO ENROLL A SUBSCRIBER IN LIFELINE¹¹

A. Policy

IM Telecom will comply with the uniform eligibility criteria established in section 54.409 of the Commission’s rules, as amended by and through the Third Report and Order. Therefore, all subscribers will be required to demonstrate eligibility, as determined by the National Lifeline Eligibility Verifier (“National Verifier”),¹² based on: (1) household income at or below one hundred-thirty five percent (135%) of the Federal Poverty Guidelines for a household of that size; or (2) the household’s participation in one of the federal assistance programs listed in

⁹ See Third Report and Order at ¶ 366.

¹⁰ See *id.* The Third Report and Order clarifies that the requirement to provide Wi-Fi-enabled handsets does not apply to devices provided prior to the effective date of the rule (December 2, 2016).

¹¹ See Compliance Plan Public Notice at 3.

¹² The National Verifier is fully operational, except in NLAD Opt-out states where it is undergoing a modified launch (see *Wireline Competition Bureau Announces the Next National Lifeline Eligibility Verifier Launch in Three States*, WC Docket No. 11-42, Public Notice, DA 19-1290 (Released Dec. 18, 2019)). In these states, IM Telecom will rely upon the National Verifier in conjunction with the state administrator (together, the “National Verifier”) for eligibility determination.

sections 54.409 of the Commission's rules. In addition, through the certification requirements described below and the use of the National Lifeline Accountability Database ("NLAD"), the Company confirms that the subscriber is not already receiving a Lifeline service and no one else in the subscriber's household is subscribed to a Lifeline service.

B. Eligibility Determination

IM Telecom relies on the National Verifier and NLAD (in conjunction with the state administrator in NLAD Opt-out states; hereafter, use of "National Verifier" is inclusive of any state administrator in NLAD Opt-out states) to determine an applicant's eligibility for Lifeline service. Eligible customers can enroll in IM Telecom's Lifeline service directly with IM Telecom and authorized third-party vendors in-person through field representatives or at retail locations, electronically on the Company's website, or with the assistance of live call center agents. Customers may also apply directly with the National Verifier online or by mail. Regardless of enrollment method, IM Telecom relies upon the National Verifier for determination of consumer eligibility for Lifeline.

IM Telecom uses a web-based electronic Lifeline enrollment application ("App") for all Lifeline customer enrollments. Applications are processed using a platform (currently third-party, though the Company could in the future implement its own compatible platform) which works in conjunction with the National Verifier and NLAD. The App works on a tablet or computer in tandem with the National Verifier Service Provider portal to provide the required disclosures and collect applicant information, identity documentation, and proof of eligibility, all of which is uploaded to the National Verifier for eligibility determination and NLAD duplicate check. Each prospective customer is checked against the NLAD to ensure that the applicant does

not already receive Lifeline service before the customer is enrolled.¹³ Upon approval in a state, IM Telecom provides an approved Zip Code list to load into the App to ensure all prospective subscribers reside within IM Telecom’s approved service area as designated by the state commission or the FCC.

Customers that enroll electronically will use the National Verifier consumer portal to submit their Lifeline application and eligibility documentation directly to the National Verifier, or customers may submit such documentation directly to the National Verifier by mail. IM Telecom does not collect, review, or maintain eligibility documentation, other than in NLAD-opt out states if required.

As discussed in further detail in Section I.F. below, all employees or representatives (“Representative(s)”) who interact with current or prospective customers are trained regarding all applicable eligibility and certification requirements, including the one-per-household requirement, and are required to inform potential customers of those requirements.

Further, IM Telecom will not enroll customers at retail locations where the Company does not have an agency agreement with the retailer. IM Telecom will require a retailer to have any employees involved in the enrollment process go through the standard Company training process, just as it would for any other Company Representative. By establishing contractual relationships with all of its Representatives, including future retail outlets, IM Telecom meets the “deal directly” requirement adopted in the TracFone Forbearance Order.¹⁴

The Commission determined in the 2012 Lifeline Reform Order that ETCs may permit representatives to assist with the Lifeline application process because “the Commission has

¹³ See *infra* Section I.F. regarding use of the NLAD.

¹⁴ See Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), CC Docket No. 96-45, Order, FCC 05-165, ¶ 19 (2005).

consistently found that “[l]icensees and other Commission regulatees are responsible for the acts and omissions of their employees and independent contractors.”¹⁵ IM Telecom acknowledges it is responsible for the actions of all of its Representatives, and further commits to comply with the Commission’s *Fifth Report and Order* which set forth reforms to strengthen the Lifeline program’s enrollment, recertification, and reimbursement processes including involvement of representatives.¹⁶

All Representatives are instructed that the company has zero tolerance for waste, fraud or abuse, and that they should notify the compliance team if they suspect that anyone might be providing false information or attempting to obtain a duplicate Lifeline benefit. In addition, if Representatives have any questions or concerns regarding eligibility and enrollment, the Company strongly encourages them to bring such questions and concerns to the IM Telecom compliance team so that they can be researched and resolved in accordance with the Commission's Lifeline rules and regulations. IM Telecom provides Representatives with refresher training, including to inform them of changes to Lifeline program rules and regulations, including eligibility requirements. Representatives will be disciplined, up to and including termination, for failing to comply with Lifeline rules and regulations. IM Telecom also provides comprehensive training to its internal compliance personnel.

De-Enrollment for Ineligibility. If IM Telecom has a reasonable basis to believe that one of its Lifeline subscribers no longer meets the eligibility criteria, the Company will notify the

¹⁵ 2012 Lifeline Reform Order ¶ 110.

¹⁶ *In the Matter of Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 17-287, WC Docket No. 11-42, WC Docket No. 09-197, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 19-111 (rel. Nov. 14, 2019) (“*Fifth Report and Order*”).

subscriber of impending termination in writing, will comply with any state dispute resolution procedures applicable to Lifeline termination, and will give the subscriber thirty (30) days to demonstrate continued eligibility.¹⁷ A demonstration of eligibility must comply with the annual certification procedures in 47 C.F.R. §54.410(f). After the expiration of the subscriber's time to respond, IM Telecom will de-enroll any subscriber who fails to demonstrate eligibility within five (5) business days. If IM Telecom is notified by the Administrator that a subscriber is receiving duplicative support, IM Telecom will de-enroll the subscriber within five (5) business days pursuant to 47 C.F.R. §54.405(e)(2).

As required by the Commission's rules, if a customer contacts the Company and states that he or she is not eligible for Lifeline or wishes to de-enroll for any reason, the Company will de-enroll the customer within two (2) business days.¹⁸ Live customer service and bilingual operators can currently be reached for Lifeline service support from 8 AM to 8 PM CST Monday through Friday, and 8 AM to 5 PM CST on Saturday, with 24/7 access to assistance via phone and email.

C. Subscriber Certifications for Enrollment

IM Telecom has implemented certification policies and procedures that enable consumers to demonstrate their eligibility for Lifeline assistance in compliance with 47 C.F.R. § 54.410(a). The Company shares the Commission's concern about abuse of the Lifeline program and is thus committed to the safeguards stated herein, with the belief that these procedures will prevent the Company's customers from engaging in such abuse of the program, inadvertently or intentionally. Every applicant will be required to complete the universal or National Verifier

¹⁷ See 2012 Lifeline Reform Order ¶ 143; 47 C.F.R. § 54.405(e)(1).

¹⁸ See 47 C.F.R. § 54.405(e)(5).

Lifeline application forms required by FCC rules (“Universal Forms”), and thus IM Telecom complies with the disclosure and information collection requirements in 47 C.F.R. § 54.410(d).¹⁹ The Universal Forms, whether online or paper format, indicate qualifying programs as well as a breakdown of income eligibility based upon the Federal Poverty Guidelines by household size. When enrolling with IM Telecom’s assistance via the service provider portal, Company Representatives will orally explain the certifications to consumers.²⁰

Disclosures. The Universal Forms include the following disclosures, which the Company also includes on its website or electronic application platform: (1) Lifeline is a federal benefit and willfully making false statements to obtain the benefit can result in fines, imprisonment, de-enrollment or being barred from the program; (2) only one Lifeline service is available per household; (3) 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; (4) a household is not permitted to receive Lifeline benefits from multiple providers; (5) violation of the one-per-household limitation constitutes a violation of the Commission’s rules and will result in the applicant’s de-enrollment from the program; and (6) Lifeline is a non-transferable benefit and the applicant may not transfer his or her benefit to any other person.²¹ The Universal Forms further collect the information and certifications required by 47 C.F.R. §§ 54.410(d)(2)-(3), and

¹⁹ See *FCC Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program*, WC Docket No. 11-42, Public Notice, DA 18-161 (rel. Feb. 20, 2018). The standard application/certification forms are available on USAC’s website (See USAC, Lifeline Forms, <https://www.usac.org/lifeline/additional-requirements/forms/>). See Compliance Plan Public Notice at 3.

²⁰ See 2012 Lifeline Reform Order ¶ 123.

²¹ See *id.* ¶ 121; 47 C.F.R. § 54.410(d)(1).

require the applicant to consent to transmission of the subscriber's information to the Administrator to ensure the proper administration of the Lifeline program.²²

D. Annual Re-Certification Procedures

IM Telecom relies upon the National Verifier to annually re-certify all subscribers in compliance with section 54.410(f)(3) of the Commission's rules (the Company follows prescribed modified processes in NLAD opt-out states). The National Verifier is responsible to annually confirm a subscriber's current eligibility to receive Lifeline by querying the appropriate income or eligibility databases, or contacting subscribers as needed to obtain a signed certification from the subscriber on a form that meets the certification requirements in section 54.410(d). The National Verifier is responsible for sending notice to the subscriber explaining that failure to respond to the re-certification request within sixty (60) days will result in the subscriber's de-enrollment from the Lifeline program. If IM Telecom is notified by the National Verifier that it is unable to re-certify a subscriber, IM Telecom will comply with the de-enrollment requirements provided for in §54.405(e)(4).²³

²² See 47 C.F.R. § 54.404(b)(9). The application/certification form will also describe the information that will be transmitted, that the information is being transmitted to USAC to ensure the proper administration of the Lifeline program and that failure to provide consent will result in the applicant being denied the Lifeline service. See 47 C.F.R. § 54.404(b)(9).

²³ IM Telecom may send messages to its customers, as permitted by National Verifier recertification processes, to educate them regarding the annual recertification process and requirement, as contemplated by the 2012 Lifeline Reform Order. This type of educational recertification message is consistent with the 2012 Lifeline Reform Order, which states that "ETCs and states may also choose to notify subscribers about the re-certification requirements in their Lifeline outreach materials. By taking these actions, ETCs and states will ensure that consumers are aware of the importance of responding to re-certification efforts, and that they are not inadvertently disconnected due to a lack of understanding of program rules." 2012 Lifeline Reform Order ¶ 145.

E. Activation and Non-Usage

To the extent IM Telecom offers Lifeline service that does not require the Company to assess and collect a monthly fee from its subscribers, the Company will not seek Lifeline reimbursement for a subscriber until the subscriber activates the Company's service, such as by engaging in qualified use of the service as defined in 47 C.F.R. § 54.407(c)(2).²⁴

After service activation, IM Telecom will not seek reimbursement from the USF for and will de-enroll any subscriber that has not paid a monthly fee for or used the Company's Lifeline service as set forth in 47 C.F.R. § 54.407(c)(2). An account will be considered active if the authorized subscriber establishes usage, as "usage" is defined by 47 C.F.R. § 54.407(c)(2), during the specified timeframe, currently a period of thirty (30) days, or during the notice period set forth in 47 C.F.R. § 54.405(e)(3), currently a period of fifteen (15) days. In accordance with 47 C.F.R. § 54.405(e)(3), IM Telecom will provide the subscriber advanced notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the notice period will result in service termination for non-usage. IM Telecom will update the NLAD within one (1) business day of de-enrolling a subscriber for non-use and will submit a non-usage de-enrollment report annually to USAC.²⁵

²⁴ See 2012 Lifeline Reform Order ¶ 257; 47 C.F.R. § 54.407(c)(1).

²⁵ See 2012 Lifeline Reform Order at ¶ 257; see also 47 C.F.R. §§ 54.404(b)(10) and 54.405(e)(3), respectively.

F. Additional Measures to Prevent Waste, Fraud and Abuse

IM Telecom is committed to carefully follow the various measures and procedures implemented by the Commission to curb waste, fraud and abuse in the Lifeline program and prevent duplicate Lifeline benefits being awarded to the same household. The Company complies with the requirements of the NLAD and section 54.404 of the Commission's rules. Through use of the National Verifier, the Company queries the NLAD for every enrollment²⁶ to determine whether a prospective subscriber is currently receiving a Lifeline service from another ETC and whether anyone else living at the prospective subscriber's residential address is currently receiving Lifeline service.²⁷

In addition to checking the NLAD, Company Representatives emphasize the "one Lifeline phone per household" restriction in their direct sales contacts with potential customers. Training materials include a discussion of the limitation to one Lifeline phone per household, and the need to ensure that the customer is informed of this restriction. All Company Representatives interacting with existing and potential Lifeline customers undergo training regarding eligibility and certification requirements. Representatives must acknowledge completion of the training and agree to follow the procedures outlined therein. Further, Representatives assisting with National Verifier or NLAD transactions will be required to participate in the Representative Accountability Database (RAD) in accordance with FCC rules.

²⁶ With the limited exception of states that have opted out of the NLAD. In those states, IM Telecom will follow the duplicates detection process required by the state.

²⁷ See 2012 Lifeline Reform Order ¶ 203. The Company transmits to the NLAD the information required for each new Lifeline subscriber. See *id.*, ¶¶ 189-195; 47 C.F.R. § 54.404(b)(6). Further, the Company updates each subscriber's information in the NLAD within ten (10) business days of any change, except for de-enrollment, which will be transmitted within one business day. See 47 C.F.R. § 54.404(b)(8),(10). These statements may not be applicable in states that have opted out of the NLAD.

All Representatives are given a toll-free hotline and an email address that can be used for any issues or questions regarding Lifeline services.

One-Per-Household Certification. IM Telecom has implemented the requirements of the 2012 Lifeline Reform Order to ensure that it provides only one Lifeline benefit per household²⁸ through the use of Universal Forms discussed above, National Verifier and NLAD database checks, and its marketing materials discussed below. Upon receiving an application for the Company's Lifeline service, IM Telecom will search its own internal records to ensure that it does not already provide Lifeline-supported service to someone at the same residential address.²⁹ If an applicant shares an address with one or more existing Lifeline subscribers according to the NLAD or National Verifier, the prospective subscriber may complete a form certifying compliance with the one-per-household rule in accordance with 47 C.F.R. § 54.410(g).³⁰

If an applicant is determined to have an existing Lifeline service, IM Telecom will explain that a subscriber cannot have multiple Lifeline Program benefits with the same or different service providers, and will obtain consent from the subscriber that the subscriber wishes to transfer their existing Lifeline service to IM Telecom (and acknowledges doing so will result in loss of the Lifeline benefit with their former Lifeline service provider) prior to initiating a benefit transfer.

²⁸ A "household" is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An "economic unit" consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians. *See* 2012 Lifeline Reform Order ¶ 74; section 54.400(h).

²⁹ *See* 2012 Lifeline Reform Order ¶ 78.

³⁰ The Household Worksheet is available at <https://www.usac.org/lifeline/additional-requirements/forms/>.

Marketing Materials. The Company includes the following information regarding its Lifeline service on all marketing materials describing the service: (1) it is a Lifeline service, (2) Lifeline is a government assistance program, (3) the service is non-transferable, (4) only eligible consumers may enroll in the program, (5) the program is limited to one discount per household; and (6) the name of the ETC.³¹ These statements are included in all print, audio, video and web materials (including social networking media) used to describe or enroll customers in the Company's Lifeline service offering; this specifically includes the Company's website as well as outdoor signage.³² In addition, the application forms state that consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program.

G. Company Reimbursements from the Fund

To ensure that IM Telecom does not seek reimbursement from the Fund without a subscriber's consent, the Company certifies, as part of each reimbursement request, that it is in compliance with all of the Commission's Lifeline rules and, to the extent required, has obtained valid certification and re-certification forms from each of the subscribers for whom it is seeking reimbursement.³³ Further, the Company will comply with the Commission's requirement to use a first day of the month uniform snapshot date to request reimbursement from USAC for the provision of Lifeline support.³⁴ In addition, the Company will keep accurate records as directed by USAC³⁵ and as required by section 54.417 of the Commission's rules.

³¹ See 2012 Lifeline Reform Order ¶ 275; 47 C.F.R. § 54.405(c).

³² See 2012 Lifeline Reform Order ¶ 275; 47 C.F.R. § 54.405(c).

³³ See 2012 Lifeline Reform Order ¶ 128; 47 C.F.R. § 54.407(d).

³⁴ See 47 C.F.R. § 54.407(a).

³⁵ See 47 C.F.R. § 54.407(e).

H. Annual Company Certifications

The Company submits an annual FCC Form 481 filing to the Commission by July 1st of each year, providing the Company's business and affiliate information, terms and conditions of any voice telephony plans offered to Lifeline subscribers, and all other required information and certifications.³⁶ The Company also submits an annual Form 555 filing to the Commission certifying, under penalty of perjury, that the Company: (1) has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services; (2) that the Company is in compliance with all federal Lifeline certification procedures; and (3) that the Company is in compliance with the minimum service levels set forth in 47 C.F.R. §54.408.³⁷ The Company provides the results of re-certification efforts, performed pursuant to section 54.410(f) of the Commission's rules, as amended, annually by January 31st, for re-certification efforts of the previous year.³⁸

I. Cooperation with State and Federal Regulators

IM Telecom will cooperate with federal and state regulators to prevent waste, fraud and abuse. More specifically, the Company will:

- Assist the Commission, USAC, state commissions, and other ETCs in resolving instances of duplicative enrollment by Lifeline subscribers, including by providing to USAC and/or any state commission, upon request, the necessary information to detect and resolve duplicative Lifeline claims;
- Promptly investigate any notification that it receives from the Commission, USAC, or a state commission to the

³⁶ See 47 C.F.R. § 54.422.

³⁷ See 47 C.F.R. § 54.416(a).

³⁸ See 47 C.F.R. § 54.416(b).

effect that one of its customers already receives Lifeline services from another carrier; and

- Immediately de-enroll any subscriber whom the Company has a reasonable basis to believe⁴⁹ is receiving Lifeline-supported service from another ETC or is no longer eligible.

II. Description of Lifeline Service Offerings³⁹

IM Telecom will offer its Lifeline service in the service areas in the states where it is designated as an ETC and throughout the coverage area of its Underlying Carriers. IM Telecom's Lifeline-supported services will meet or exceed the minimum service standards set forth in 47 C.F.R. § 54.408.

IM Telecom's current wireless Lifeline offering based upon minimum service standards (MSS) effective December 1, 2023, and subject to change based upon future increases in MSS, consists of the following plan option(s):

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

Top Ups:

- \$10.00 for 1,000 minutes and 1,000 texts
- \$10.00 for 1GB Refill
- \$20.00 for 2GB Refill
- \$30.00 for 4GB Refill

³⁹ See Compliance Plan Public Notice at 3.

In addition to allotments of voice, text and broadband services, IM Telecom's current wireless Lifeline offering includes a free SIM card (or may contain a free handset) and access to custom calling features at no charge, including Caller ID, Call Waiting, Call Forwarding, 3-Way Calling, and Voicemail. All wireless Lifeline plans include domestic long-distance at no extra per minute charge. Calls to 911 emergency services are always free, regardless of service activation or availability of minutes. Lifeline customers can purchase additional minutes or data through customer service, the Company's website, and through IVR. Additional information regarding the Company's wireless Lifeline plans, rates and services can be found on its website (<https://www.Infinitimobile.com/>).

III. Demonstration of Financial and Technical Capabilities and Certifications Required for ETC Designation⁴⁰

Financial and Technical Capabilities. 47 C.F.R. § 54.202(a)(4) requires carriers petitioning for ETC designation to demonstrate financial and technical capability to comply with the Commission's Lifeline service requirements,⁴¹ and the Compliance Plan Public Notice requires that carriers' compliance plan include this demonstration. Among the factors the Commission will consider are the following: a carrier's prior offering of service to non-Lifeline subscribers, the length of time the carrier has been in business, whether the carrier relies exclusively on Lifeline reimbursement to operate; whether the carrier receives revenues from other sources and whether the carrier has been the subject of an enforcement action or ETC revocation proceeding in any state.

IM Telecom has successfully operated as a provider of wireless Lifeline service since 2012. Financial support for IM Telecom's continued operations will be enhanced pursuant to the

⁴⁰ See Compliance Plan Public Notice at 3.

⁴¹ See 2012 Lifeline Reform Order ¶¶ 387-388 (revising Commission rule 54.202(a)(4)).

terms of an Agreement by and among IM Telecom, LLC d/b/a Infiniti Mobile, an Oklahoma limited liability company, KonaTel, Inc., a Delaware corporation (hereafter the “Seller”); and Excess Telecom, Inc., a Nevada corporation (hereinafter the “Buyer” or “Excess”), under which Buyer will purchase one hundred percent (100%) of the issued and outstanding membership ownership interests of IM Telecom (the “Transaction”). In step one of the Transaction, Excess is acquiring forty nine percent (49%) of the membership ownership interests of IM Telecom; step two of the Transaction is the purchase of the remaining fifty-one percent (51%) of the membership ownership interests of IM Telecom upon obtaining any required regulatory approvals for the Transaction, including this Second Amended Compliance Plan. Organizational charts pre-and-post-close are attached hereto as Exhibit A.

Excess was incorporated in 2013 and commenced offering resold wireless services in 2020. On March 19, 2015 (DA 15-348), the FCC International Bureau granted Excess Section 214 international authority to provide facilities-based service in accordance with section 63.18(e)(1) of the Commission’s rules, and also to provide resale service in accordance with section 63.18(e)(2) of the Commission’s rules. Excess’s principal offices are located at 3773 Howard Hughes Pkwy 590S, Las Vegas, NV 89169. Excess has established considerable financial, managerial and technical resources that will be available, as needed, to support IM Telecom in its operations and continuing growth. Excess is owned fifty percent (50%) by Cobby Pourtavosi and fifty percent (50%) by Shadi Aslemand, both United States citizens.⁴² Excess is authorized to provide CMRS throughout the United States and Puerto Rico, and has been authorized to provide services by the FCC and USAC under the Affordable Connectivity Program

⁴² Ms. Aslemand also owns one hundred percent (100%) of Insight Mobile, Inc. which holds international Section 214 authority from the Commission to provide global facilities-based and resale service and is an approved ACP provider.

("ACP") (and previously the Emergency Broadband Benefit "EBB" program) in said jurisdictions. Excess does not have foreign ownership and, like IM Telecom, is not a foreign carrier or affiliated with foreign carriers in any market.

Excess brings to IM Telecom not only financial stability, but also managerial and technical resources. Excess receives revenue from a number of sources which are independent from the revenue it receives in the form of Lifeline reimbursements, such as non-Lifeline wireless income from the sale of prepaid wireless services to non-Lifeline consumers. Excess will similarly move forward with IM Telecom operations such that IM Telecom provides non-Lifeline services wholly separate from and/or complementary to its Lifeline services. IM Telecom has provided non-Lifeline telecommunications services and will continue to do so after the closing of the Transaction. Consequently, IM Telecom has not and will not be relying exclusively on Lifeline reimbursement for its operating revenues. IM Telecom has not been subject to enforcement action, and has not been subject to ETC revocation proceedings in any state except for Wisconsin which was reinstated.⁴³ Excess has not been subject to enforcement sanctions regarding the Low Income Fund or ETC revocation proceedings in any state.

⁴³ The Public Service Commission of Wisconsin (WI PSC) granted IM Telecom designation as an ETC by Order effective May 25, 2016 in Docket No. 9694-TI-100. The WI PSC rescinded IM Telecom's ETC designation in Docket No. 5-TI-2723 effective July 30, 2020 because the Company had not yet offered Lifeline service in Wisconsin and did not respond to certain data requests issued by Staff. IM Telecom filed to reinstate its ETC designation, sincerely apologizing for the circumstances surrounding its ETC revocation proceeding, identifying the reasons for its failures, and explaining the steps it had taken to remedy these problems: "In order to prevent any compliance deficiencies in the future, IM Telecom has put measures in place to ensure consistent, timely compliance going forward by contracting with independent third-party compliance vendors: FAS Tek Compliance Solutions, Inc. for ongoing regulatory compliance and reporting ongoing sales and use tax and E-911 compliance; Expert Telecom Compliance, Inc. for ETC-specific compliance; and Lance J.M. Steinhart, P.C. for legal and regulatory services, including maintaining current contact information with regulatory entities, as well as legal advice regarding operations, marketing and compliance, rate changes and service area expansions, advice regarding state and federal ETC Lifeline rulemakings and rule changes, and general monitoring of Lifeline notices and proceedings that could potentially affect IM Telecom. These third-party vendors will provide industry expertise and add a layer of accountability and protection regardless of unforeseen internal personnel changes, although in

With respect to technical expertise, both IM Telecom and Excess have considerable experience complying with the requirements of the federal Lifeline program and/or ACP. In addition, the post-Transaction operations team will consist of seasoned personnel experienced in the telecommunications industry.⁴⁴ As a result, the Transaction will bring the full strength of Excess's telecommunications capabilities and business expertise, particularly with respect to compliance and marketing in the low-income consumer sector. Excess's ownership will enable IM Telecom to achieve measurable growth at the same time as it develops improved operating efficiencies, both necessary components for the Company to thrive. In addition, the Transaction will not result in any loss or impairment of service for any customer, and customers will continue to receive their existing services at the same or better rates, terms, and conditions currently in effect.

Service Requirements Applicable to the Company's Support. The Compliance Plan Public Notice requires carriers to include "certifications required under amended section 54.202 of the Commission's rules."⁴⁵ IM Telecom certifies that it will comply with the service requirements applicable to the support the Company receives.⁴⁶ IM Telecom's Lifeline supported voice services will meet the minimum service standards set forth in 47 C.F.R. § 54.408. IM Telecom's Lifeline supported broadband services will meet the minimum service standards set forth in 47 C.F.R. § 54.408 for mobile broadband internet access services, including for service speed and data usage allowance, as such standards are updated on an annual

addition, the Company has dedicated staff to work with these aforementioned compliance providers." The WI PSC found that re-designation was in the public interest by Order effective July 20, 2022.

⁴⁴ Attached Exhibit B contains information on key management personnel post-Transaction. The management team currently holds dual roles at Excess Telecom and Insight Mobile, Inc., and will serve the same roles for IM Telecom upon the closing of the Transaction.

⁴⁵ Compliance Plan Public Notice at 3.

⁴⁶ See 47 C.F.R. § 54.202(a)(1).

basis. To the extent IM Telecom provides devices for use with Lifeline-supported broadband service, such devices will meet the equipment requirements set forth in 47 C.F.R. § 54.408(f), and IM Telecom will not impose an additional or separate tethering charge for mobile data usage below the minimum standard.

The Company provides all of the telecommunications services supported by the Lifeline program and will make the services available to all qualified consumers throughout the states in which it is designated as an ETC. The Company's services include voice telephony services that provide voice grade access to the public switched network or its functional equivalent and broadband Internet access service that is a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service. Further, the Company's wireless service offerings included in Section II *supra* provide its customers with a set number of minutes of use at no additional charge to the customer beyond the monthly plan rate, and can be used for local and domestic toll service.

The Company will also provide access to emergency services provided by local government or public safety officials, including 911 and E911 where available, and will comply with any Commission requirements regarding E911-compliant handsets. As discussed above, the Company will comply with the Commission's applicable forbearance grant conditions relating to the provision of 911 and E911 services and handsets (when applicable).

Finally, IM Telecom will not provide toll limitation service ("TLS"), which allows low-income consumers to avoid unexpected toll charges. However, since IM Telecom is a prepaid service provider, customers cannot be disconnected for failure to pay toll charges and they are

unable to exceed their preset minutes without purchasing more in advance. The Company, like most wireless carriers, does not differentiate domestic long-distance toll usage from local usage and all usage is paid for in advance. Pursuant to the 2012 Lifeline Reform Order, subscribers to such services are not considered to have voluntarily elected to receive TLS.⁴⁷

IV. Conclusion

IM Telecom submits that its Second Amended Compliance Plan fully satisfies the conditions set forth in the Commission's 2012 Lifeline Reform Order, the Compliance Plan Public Notice and the Lifeline rules. Timely approval of this Second Amended Compliance Plan is essential to allow IM Telecom to consummate the ownership change as described herein and demonstrably strengthen the Company's operating capabilities to the direct benefit of its Lifeline customers. Accordingly, the Company respectfully requests that the Commission expeditiously approve these revisions to its Compliance Plan.

Respectfully submitted,

/s/ Lance J.M. Steinhart

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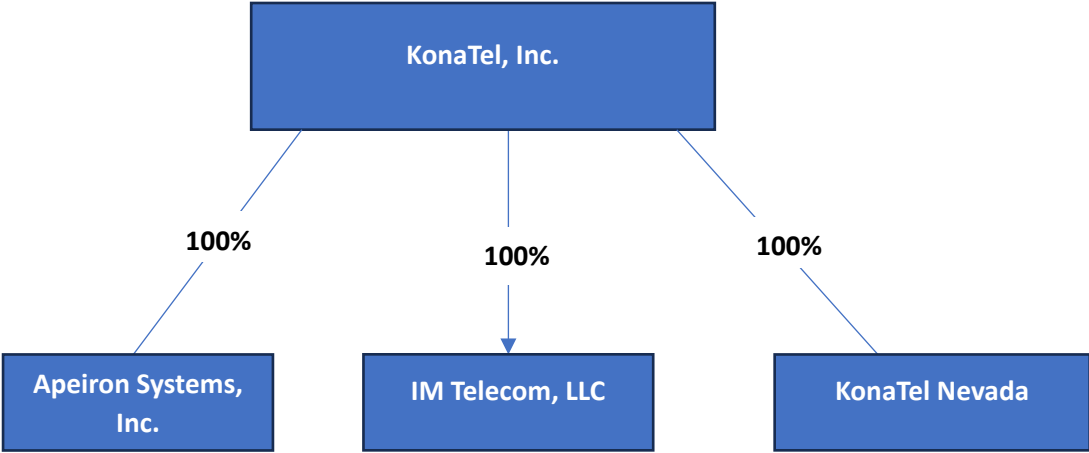
Legal and Regulatory Counsel

March 13, 2024

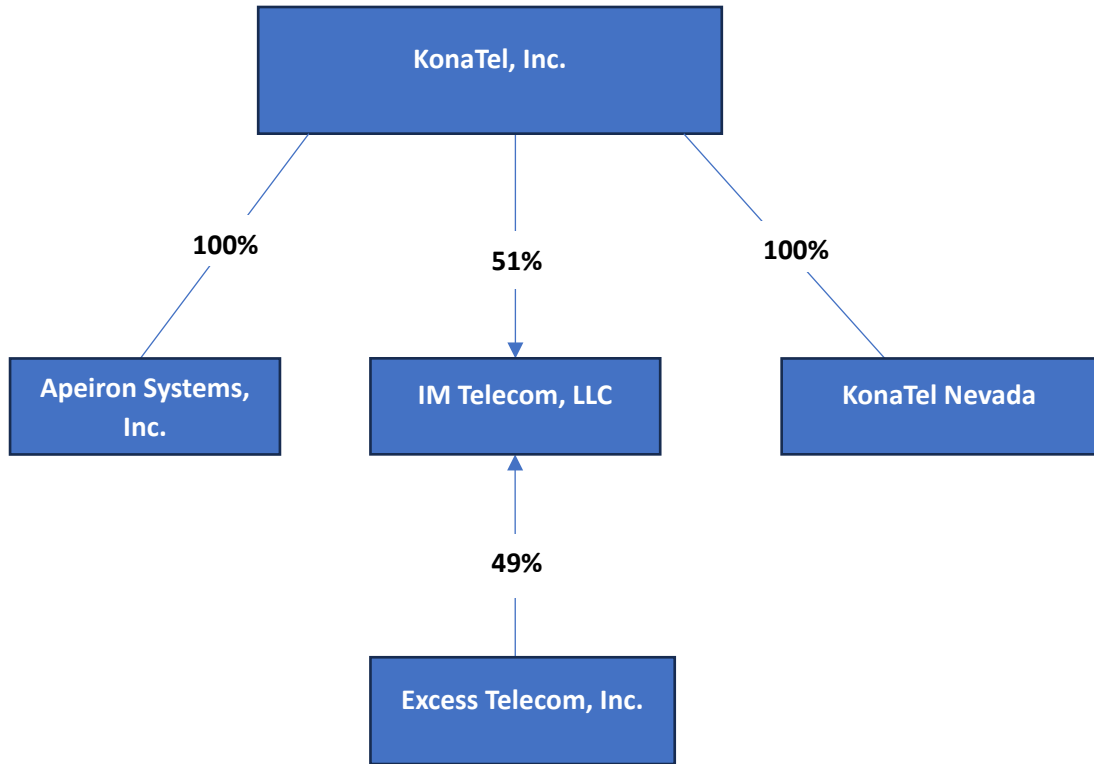
⁴⁷ See 2012 Lifeline Reform Order ¶ 230.

EXHIBIT A

Pre-Transaction Org Chart



STEP 1



STEP 2

(Post-Transaction)

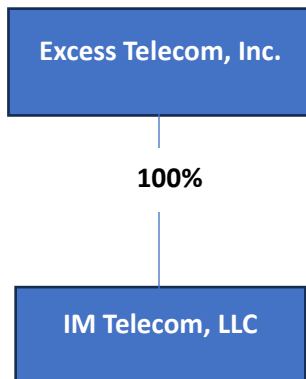


EXHIBIT B

John Ripley (President - Excess Telecom, Inc. and Insight Mobile, Inc.)

For the past 25 years John Ripley has worked with companies to build and execute high growth strategies that revolve around profitable, sustainable and efficient growth. In his current role as President, John oversees strategic execution while managing all customer operations, field operations, compliance, legal, corporate operations, finance and accounting.

After starting his career in finance and accounting with big tech companies such as Oracle and Microsoft, John pivoted to work with start-up and growth stage companies in the telecommunications, healthcare, technology and services industries. Prior to joining Excess Telecom as Chief Operations Officer in April 2022, John held executive leadership roles in the Lifeline and Emergency Broadband Benefit Program space since 2013 when he served as COO and Chief Financial Officer for IMMERGE, LLC. At IMMERGE, John managed a field operations and compliance team that oversaw the activities of more than 3,000 field agents spread across the United States. Under John's guidance, IMMERGE successfully launched, grew and managed one of the largest lifeline enrollment companies in the nation in a compliant-centric manner.

John also has worked extensively with companies and regulators to develop and execute growth strategies in other highly regulated industries including healthcare, energy and banking. This broad set of experience provides John with the skillset needed to manage both Excess and Insight toward a compliance-centric, customer focused path of sustainable, profitable growth.

Andrew Whitelock (Chief Compliance Officer – Excess Telecom, Inc. and Insight Mobile, Inc.)

Over the past 25 years, Andrew Whitelock has developed and led compliance and risk management programs in a variety of for-profit and non-profit companies. As Chief Compliance Officer, Andrew directs the activities of the company's compliance program, manages regulatory compliance and overseas risk management practices.

Andrew began his career contracting with medical providers and hospitals to build a comprehensive healthcare delivery network serving low-income and disadvantaged populations in Los Angeles. He joined L.A. Care Health Plan in 1998 and progressed from provider contracting to regulatory compliance, and then account executive managing two key corporate partnerships. In 2005, Andrew became the Director of Government Contracts with Molina Healthcare of California and was the Associate Vice President of Government Contracts when he departed in 2012 to become the Compliance Officer at SCAN Health Plan. Prior to joining Excess Telecom, Andrew was SCAN's Chief Risk Executive. Andrew has experience managing diverse teams with a wide scope of responsibilities. As the Chief Risk Executive at SCAN, he managed four departments with sixty-five staff members and an annual budget of \$11M.

Andrew has broad experience identifying and mitigating enterprise risks. He has worked extensively with state and federal regulators to manage monitoring and auditing activities; review proposed regulations and policies; and demonstrate compliance with program requirements. Proactively managing enterprise risks is core to Andrew's leadership role with both Excess Telecom and Insight Mobile.

Andrew is a graduate of the University of Southern California (“USC”) with Bachelor of Arts degrees in history and biological sciences. He also holds a Master of Science in international development and non-profit management from USC, and a Master of Business Administration from Pepperdine University.

Ryan Moxom (Vice President, Operations – Excess Telecom, Inc. and Insight Mobile, Inc.)

In his role as Vice President Operations, Ryan oversees all field operations for Excess Telecom and Insight Mobile, including agent training and onboarding, customer support and customer engagement programs.

Ryan’s telecommunications experience includes being a Program Manager at the Universal Service Administrative Company for the Lifeline program, managing Lifeline compliance matters for Verizon, and Director of Regulatory Compliance for StandUp Wireless, a Lifeline and Affordable Connectivity Program provider. In his most recent role, Ryan was a Lead Product Marketing Manager with AT&T Inc.

Ryan is a graduate of the University of Florida with a Bachelor of Arts degree in Economics. He also holds a Juris Doctor degree from the University of Georgia School of Law. Ryan has been a member of the Georgia Bar since 2014.

Mary Beth Ottley (Chief Operating Officer – Excess Telecom, Inc. and Insight Mobile, Inc.)

Over the past 20 years, Mary Beth Ottley has spearheaded finance and accounting, information technology, and operational teams towards embracing digital transformation and enhancing processes through system automations and data analytics. Serving as the Chief Operating Officer (COO), Mary Beth oversees the operations and information systems teams.

Mary Beth's professional journey commenced as a consultant, where she specialized in implementing software applications and data warehouses for law firms and other professional service entities. Transitioning into the Hospitality industry, she spent 15 years with a privately held management company. Throughout her tenure, Mary Beth progressively managed the Information Technology division, culminating in her role as Chief Financial Officer (CFO). Mary Beth has a Bachelor of Business Administration degree in Finance from the University of Georgia and a wealth of experience in implementing corporate applications and data analytics, Mary Beth brought a discerning, data-driven approach to the CFO role. As an executive leader her focus is on mentorship and enablement and has developed teams to manage with the same attention to problem solving and constant improvement. Her tenure was marked by a relentless pursuit of change and improvement in processes and people.

EXHIBIT B

LETTER OF GUARANTEE



KonaTel, Inc.
500 N Central Expressway, Ste. 202
Plano, TX 75074

To: State of Washington
Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: IM Telecom, LLC d/b/a Infiniti Mobile

KonaTel, Inc., the parent company of IM Telecom, LLC d/b/a Infiniti Mobile, hereby guarantees the obligations of IM Telecom, LLC dba Infiniti Mobile for the State of Washington, so long as KonaTel, Inc. maintains majority ownership, up to the end of the first year of its operations.

By: _____

Chuck Griffin
President/COO of KonaTel, Inc.

EXHIBIT C

FCC FORM 8K

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT

**PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934**

Date of earliest event reported: January 22, 2024

KonaTel, Inc.

(Exact name of Registrant as specified in its charter)

N/A

(Former name or address, if changed since last report)

Delaware
(State or Other Jurisdiction
Of Incorporation)

001-10171
(Commission File Number)

80-0973608
(I.R.S. Employer
Identification Number)

500 N. Central Expressway, Suite 202
Plano, Texas 75074
(Address of Principal Executive Offices, Including Zip Code)

(214) 323-8410
(Registrant's Telephone Number, Including Area Code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the Registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act: None.

Indicate by check mark whether the Registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter or Rule 12b-2 of the Securities and Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the Registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

FORWARD LOOKING STATEMENTS

This Current Report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). In some cases, you can identify forward-looking statements by the following words: “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “ongoing,” “plan,” “potential,” “predict,” “project,” “should,” “will,” “would” or the negative of these terms or other comparable terminology, although not all forward-looking statements contain these words. Forward-looking statements are not a guarantee of future performance or results and will not necessarily be accurate indications of the times at, or by, which such performance or results will be achieved. Forward-looking statements are based on information available at the time the statements are made and involve known and unknown risks, uncertainties and other factors that may cause our results, levels of activity, performance or achievements to be materially different from the information expressed or implied by the forward-looking statements in this Current Report. We cannot assure you that the forward-looking statements in this Current Report will prove to be accurate, and therefore, prospective investors are encouraged not to place undue reliance on forward-looking statements. You should carefully read this Current Report completely, and it should be read and considered with all other reports filed by us with the United States Securities and Exchange Commission (the “SEC”). Other than as required by law, we undertake no obligation to update or revise these forward-looking statements, even though our situation may change in the future.

EXPLANATORY NOTES

Except as otherwise indicated by context, references to the “Company,” “we,” “our,” “us” and words of similar import refer to “KonaTel, Inc.,” a Delaware corporation, formerly named Dala Petroleum Corp., which is the Registrant (“KonaTel”), and our wholly-owned subsidiaries, KonaTel, Inc., a Nevada corporation (“KonaTel Nevada”), Apeiron Systems, Inc., a Nevada corporation (“Apeiron Systems”), and IM Telecom, LLC, an Oklahoma limited liability company doing business as “Infiniti Mobile” (“IM Telecom” or “Infiniti Mobile”).

Section 1 - Registrant’s Business and Operations

Item 1.01 Entry into a Material Definitive Agreement.

Item 2.01 Completion of Acquisition or Disposition of Assets.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

Membership Interest Purchase Agreement

On January 22, 2024 (the “Effective Date”), KonaTel and IM Telecom entered into a Membership Interest Purchase Agreement (the “Purchase Agreement”) with Excess Telecom, Inc., a Nevada corporation (“Excess”). Pursuant to the Purchase Agreement, KonaTel agreed to sell 100% of KonaTel’s membership interest in IM Telecom (the “Membership Interest”) to Excess for an aggregate purchase price of \$10,000,000 (the “Initial Purchase Price”). The executed Purchase Agreement and the related agreements described below under this Section 1 (the “Transaction Documents”) have been deposited in escrow with legal counsel for Excess pending the “Initial Closing.” Under the terms of the Purchase Agreement, the sale of the Membership Interest is to occur in two (2) closings. Subject to the terms and conditions of the Purchase Agreement, on the Initial Closing Date, which shall be the date that is two (2) Business Days following Excess’ receipt from Universal Service Administrative Company (“USAC”) of its January 2024 account receivable in connection with the ACP Connectivity Program (an FCC Communications Commission [“FCC”] benefit program that helps ensure that households can afford broadband for various uses [respectively, the “ACP Connectivity Program” or “ACP”]), KonaTel shall sell, transfer and deliver certain Class A Units in IM Telecom, which Class A Units have a Membership Percentage Interest of Forty-Nine Percent (the “49% Interest” or the “Class A Units”) of IM Telecom to Excess, and Excess shall purchase all of KonaTel’s right, title and interest in and to such 49% Interest (respectively the “Initial Closing” and the “Initial Closing Date”) in consideration of \$10,000,000.

Payment of the Purchase Price shall be made as follows and as more fully discussed below: (i) \$1,000,000 within one (1) Business Day of the Effective Date (the “Deposit” [paid January 23, 2024]); (ii) on the Initial Closing Date, the Initial Purchase Price (\$10,000,000 [received on January 30, 2024]) minus the \$1,000,000 Deposit; the Closing Liabilities of approximately \$5,201,855, subject to per diem adjustments (the “CCUR Loan” principal of \$3,650,000, if paid by January 29, 2024, along with accrued interest of approximately \$52,925 and attorney’s fees of \$11,585; and approximately \$1,462,345 in principal and \$25,000 in attorney’s fees of \$25,000 owed to “ACP Financing” [the “Secured Debt”]); the Holdback Amount (“\$1,000,000”); and two-thirds (2/3rds) of the Finder’s Fee Payment (\$250,000); (iii) and if on or before December 31, 2024, the ACP Connectivity Program is renewed by Congress for a duration of greater than four (4) months (the “ACP Renewal Condition”), Excess will pay KonaTel the additional sum of \$5,000,000 (the “ACP Renewal Earnout), less the balance of the Finder’s Fee Payment (approximately \$125,000); and at the Final Closing, Excess will pay KonaTel the sum of \$100.00 for the remaining Fifty-One Percent (51%) of the Membership Percentage Interest in IM Telecom. Excluding the ACP Renewal Earnout payment of \$5,000,000, KonaTel will have received a net of approximately \$3,548,145 (which includes the \$1,000,000 Deposit paid on January 23, 2024) on the Initial Closing Date and will have satisfied all of its Secured Debt referenced above. KonaTel’s miscellaneous transaction fees and legal fees will also be paid out of the Initial Purchase Price.

The Purchase Agreement requires that \$1,000,000 of the sale proceeds at the Initial Closing to be held back by Excess and retained by Excess pending resolution of certain liabilities of IM Telecom and the performance of certain obligations of KonaTel following the Initial Closing. These liabilities and obligations generally include resolution of non-material potential infractions of which IM Telecom has been notified of by the FCC, the assignment of real estate leases from IM Telecom to KonaTel and any present or future employment or tax matters that arise prior to or after the date of Initial Closing. The holdback provisions include a process for the parties to agree upon a closing settlement statement to address any charges, fees, taxes or penalties that may arise within 180 days of the Initial Closing date and upon final settlement by the parties, any remaining funds will be paid over to KonaTel.

The Purchase Agreement also requires that KonaTel obtain security interest releases of IM Telecom from credit facilities to which IM Telecom is bound and such releases have been obtained. In obtaining such security interest releases, KonaTel will pay or has paid all amounts owed to CCUR Holdings, Inc., a Delaware corporation and its loan participants under a credit facility pursuant to the Note Purchase Agreement, dated as of June 14, 2022 in the approximate outstanding principal amount of \$3,681,660 (subject to per diem adjustment [the "CCUR Loan"]), which payment will be or has been made from the sale proceeds received from Excess under Initial Closing of the Purchase Agreement. See the 8-K Current Report dated June 14, 2022, and filed with the SEC on June 21, 2022, and the 8-KA Current Report dated June 14, 2022, and filed with the SEC on June 7, 2023, regarding the CCUR Loan, and which are Hyperlinked in Section 9-Financial Statements and Exhibits, Item 9.01 Financial Statements and Exhibits ("Item 9.01"), below, and are incorporated herein by reference.

KonaTel will continue to operate Infiniti Mobile under the licenses held by IM Telecom as the 51% majority owner of IM Telecom while the parties seek FCC approval and applicable state approvals for the final sale of the remaining Membership Interest. The FCC approval process is expected to take up to one (1) year or longer. During this time, KonaTel will remain the 51% majority equity owner of IM Telecom.

Upon the Initial Closing, KonaTel will cause certain tangible and intangible assets of IM Telecom (such as all furnishings, fixtures and equipment and the tradename of "Infiniti Mobile" and "Lifeline+") to be transferred and assigned to KonaTel. KonaTel will use such assets for the purpose of continuance of the brand "Infiniti Mobile." The only material asset of IM Telecom following the Initial Closing and transfer of the assets above to KonaTel will be its current licenses and permits (collectively the "Licenses") to continue to operate its Lifeline Program, which is administered by the USAC pursuant to authorizations, certificates, designations and registrations from the FCC, and eleven (11) states (the "Lifeline Business"); and providing Infiniti Mobile prepaid wireless phone services throughout the United States through online marketing, affiliate programs and through distributors to low-income customers that qualify for the Lifeline Program and Affordable Connectivity Program and wireless phone services (the Lifeline Business and the "ACP Business" may be referred to hereinafter collectively the "Business"). For purposes of ensuring the ongoing Infiniti Mobile sales, KonaTel will transfer all of the employees of IM Telecom as of the Initial Closing date to KonaTel, and such employees will become direct employees of KonaTel.

Following the Initial Closing, the Purchase Agreement requires that KonaTel and Excess cooperate with each other and use reasonable best efforts to obtain the necessary federal and state governmental approvals for a change in control of IM Telecom (collectively, the "Approvals") for the sale of all the Membership Interest to Excess. Excess will bear the cost of preparing all filings and submissions for obtaining the Approvals, including legal fees associated therewith. Additionally, IM Telecom has filed for twenty-six (26) additional state Lifeline approvals and will continue to pursue these approvals for the use of the current and new licenses by KonaTel under the Infiniti Mobile brand. The second closing under the Purchase Agreement (the "Final Closing") is conditioned on obtaining the Approvals, among other customary closing conditions. In the event that Excess is unable to procure the Approvals, Excess may, in its sole discretion, wait for the Approvals without any deadline or outside date; or assign its rights and interests under the Purchase Agreement and related transaction documents to any third party.

After the Initial Closing until the Final Closing, Excess and KonaTel will (x) conduct the business of the IM Telecom in the ordinary course of business consistent with past practice and the terms of an interim management agreement; and (y) use reasonable best efforts to maintain and preserve intact the IM Telecom's current organization, operations and franchise and to preserve the rights, franchises, goodwill and relationships of its customers, lenders, suppliers, regulators and others having relationships with the IM Telecom.

The Purchase Agreement requires that KonaTel refund the Initial Purchase Price paid by Excess only if, prior to the Final Closing of the remaining 51% interest in IM Telecom, (i) the License from the FCC to operate the Lifeline Business is revoked by the FCC solely due to KonaTel's failure to operate its business in compliance with the terms of such License, (ii) KonaTel terminates or is purported to terminate the Purchase Agreement, or (iii) KonaTel's Default in any of its obligations

under the Purchase Agreement necessary to effectuate the Initial or Final Closing or any conditions precedent thereto; provided, that, the failure by Excess to obtain the Approvals not arising from or in connection with any act or omission of a KonaTel, will not be a Refundable Termination Event. KonaTel's "Default" means KonaTel's breach of, default under, or inaccuracy or incompleteness in, any representation, warranty, covenant, or agreement contained in this Agreement or any other document or instrument to be delivered pursuant to the terms of this Agreement, following the expiration or termination of any applicable cure period, if any, with respect to covenants and agreements in the instance such breach or default with respect to a covenant or agreement is capable of cure. Except as provided in the termination provision(s) of the Purchase Agreement, summarized above, if the FCC does not approve Excess' acquisition of IM Telecom (i.e., transfer of majority ownership of IM Telecom from KonaTel to Excess), KonaTel shall NOT be obligated to refund any portion of the Purchase Price or Excess's associated costs for this transaction, and KonaTel shall continue to own 51% of the equity interest in IM Telecom.

Upon satisfaction (or waiver) of the closing conditions for the Final Closing and as indicated above, Excess is required to pay KonaTel \$100.00 for the remaining 51% of the Membership Interest. After the Final Closing, KonaTel will continue to serve its customers and procure new customers using its tradenames of "Infiniti Mobile" and "Lifeline+" under the Licenses of IM Telecom pursuant to a Master Distribution Agreement between IM Telecom and KonaTel (the "Distribution Agreement"), which has been signed by each party and will become effective as of the date of Final Closing and which is discussed further below.

A \$375,000 finder's fee is also payable from the proceeds of the Purchase Price to a party not affiliated with KonaTel, IM Telecom or Excess in the manner provided above.

The Purchase Agreement also contains various customary provisions regarding Efforts and Further Assurances; Expenses; Notices; Binding Agreement and Assignment; No Third Party Beneficiaries; Indemnification; Specific Performance; Severability; Captions; Entire Agreement; Counterparts; Amendment and Modification and Waiver; Successors and Assigns; Governing Law, Jurisdiction and Venue; Attorney Fees; Interpretation; Time of the Essence; and Definitions. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Purchase Agreement. A copy of the Purchase Agreement is attached hereto as Exhibit 10.1 and is incorporated herein by reference in Item 9.01 below, and should be fully considered in reviewing the foregoing summary.

Although there is strong bipartisan support for extension of the ACP Connectivity Program, the FCC is taking steps to inform customers of upcoming deadlines. Because funding is needed for the extension, we suggest further reading on this topic to be fully informed on the progress of Congress to extend the program at: <https://docs.fcc.gov/public/attachments/DOC-399712A1.pdf>

Management Agreement

As of the Initial Closing date of January 18, 2024, management of IM Telecom will be conducted pursuant to a management agreement (the "Management Agreement") until the earlier of the date of Final Closing or 99 years. KonaTel and Excess desire and intend that the Management Agreement and the performance of the services thereunder comply fully with all applicable laws, including without limitation, applicable telecommunications laws and regulations, and that the Management Agreement will be interpreted and applied in such a manner as is consistent with all such laws and regulations. If the FCC or any state body of competent jurisdiction determines that any provision of the Management Agreement violates any communications licenses or the applicable telecommunications laws and regulations, KonaTel and Excess will use their reasonable best efforts to immediately bring the Management Agreement into compliance therewith, consistent with the non-violative terms and provisions of the Management Agreement. KonaTel and Excess agree that nothing in the Management Agreement is intended to give Excess any right that would be deemed to constitute a transfer by IM Telecom of "control" (as defined in applicable telecommunications laws and regulations) of its Business, any or all of its Licenses, or of one or more of its communications licenses to Excess.

Pursuant to the Management Agreement, a manager, acting as an independent contractor, will perform certain services such as managing the Business, filing FCC forms for the collection of reimbursements from USAC and state Lifeline administrators and collecting the amounts owed by the IM Telecom's customers, preparing and filing applications, submissions, correspondence, reports and other documents that are required or necessary to be filed with any governmental authority with respect to the Business of IM Telecom, other than tax returns and for the payment of any and all liabilities arising in connection therewith. In addition, the manager will have authority and responsibility on all regulatory, legality and compliance issues, including initial enrollment standards, customer transfers (subject to KonaTel's obligations in connection with KonaTel's customers) and submission of claims for federal or state reimbursements from USAC or any other governmental body or the administrator of such governmental bodies; provided, that all such activities shall be undertaken in a commercially prudent manner and the manager is not permitted to take any actions that would cause the Licenses to be terminated, suspended or otherwise lapse.

The Management Agreement also provides for the receipt and distribution of proceeds that IM Telecom receives for its own account resulting from the operation of the Business, including, without limitation, any funds received for claims for reimbursements from the USAC under the Lifeline Business or the Affordable Connectivity Program. The distribution of the proceeds above to KonaTel and Excess will generally occur on a monthly basis as such proceeds are received by IM Telecom. In addition, the Management Agreement provides for the apportionment of certain expenses of the IM Telecom operations between KonaTel and Excess in an equitable manner so as to segregate the operating expenses and sales and use taxes for administration of business activities relating to their respective customers.

KonaTel will remain liable and responsible for, and is required to pay, perform and discharge fully and timely when due, all costs and expenses incurred by, or undertaken in connection with, the KonaTel's customers under the IM Telecom License, including, without limitation, all losses, liabilities, damages, actions, claims, obligations, fines, costs, interest charges, lease, contract or rental payments, professional fees and other expenses of operation that exist, have existed, or have arisen or accrued with respect to IM Telecom or KonaTel or its business. Similarly, Excess is liable and responsible for, and will pay, perform and discharge fully and timely when due, all costs and expenses incurred by, or undertaken in connection with its customers, including, without limitation, all losses, liabilities, damages, actions, claims, obligations, fines, costs, interest charges, lease, contract or rental payments, professional fees and other expenses of operation that have arisen or accrued with respect to its customers.

The Management Agreement also contains various additional provisions. A copy of the Management Agreement is attached hereto as Exhibit 10.2 and is incorporated herein by reference in Item 9.01 below, and should be fully considered in reviewing the foregoing summary. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Management Agreement.

Master Distribution Agreement

On January 18, 2024, KonaTel, IM Telecom and Excess Telecom Inc. also executed a Master Distribution Agreement (the "Distribution Agreement"), the term of which will commence upon the Final Closing under the Purchase Agreement referenced above for a period of not less than ten (10) years. Pursuant to the Distribution Agreement, IM Telecom engages KonaTel as a master distributor of IM Telecom's wireless services, products, Lifeline services, Affordable Connectivity Program ("ACP") services to potential customers and such other ancillary services relating to Lifeline and ACP services offered to KonaTel's customers under the Licenses held by IM Telecom (the "Services"). These Services provided by KonaTel will be offered under the Infiniti Mobile brand. The Services provided by KonaTel under the Distribution Agreement will be marketed under the Infiniti Mobile tradename and service mark, and the Infiniti Mobile Services are made exclusive to KonaTel under this Distribution Agreement.

During the term of the Distribution Agreement, under the brand name of Infiniti Mobile owned by KonaTel, KonaTel has the right to, (i) facilitate the enrollment of customers in the IM Telecom program under the Licenses held by IM Telecom, (ii) provide areas to display "point of sale" materials for implementing the IM Telecom program and procuring customers for KonaTel thereunder, (iii) implement and maintain reasonable physical, technical, administrative, and organizational safeguards to protect against unauthorized access to, or unauthorized destruction, use, modification, or disclosure of, confidential information, (iv) procure compatible devices and tablets in accordance with FCC and USAC rules and regulations, and (v) to activate service for KonaTel's customers under the Infiniti Mobile brand and on the appropriate network(s) of KonaTel's underlying cellular carrier(s).

Either Excess and IM Telecom, on the one hand, or KonaTel, on the other hand, may terminate the Distribution Agreement for the other's material breach of the Distribution Agreement unless such breach is cured within the applicable cure period.

After any termination of the Distribution Agreement, KonaTel will be entitled to: (i) receive, the unpaid amounts payable under Distribution Agreement as of the date of termination to the extent actually received by IM Telecom, (ii) to continue to receive each month, for not more than three (3) years, the recurring compensation as provided for each valid customer secured by KonaTel during the term of the Distribution Agreement so long as (a) such customer remains active including having usage; and (b) Excess and/or IM Telecom continues to receive state and federal Lifeline or ACP funding for such customer (and IM Telecom or Excess, as applicable, agree not to intentionally cease to allow receipt of such funding), and (iii) transition the customers in clause (ii) above to another ACP or LifeLine program over such three [3] year period.

KonaTel's compensation under the Distribution Agreement is 100% of the amount of funds (revenue) collected from the Lifeline and ACP reimbursement funds each month for each customer acquired by the KonaTel less the IM Telecom flat monthly fee amounts for the applicable number of customers for the applicable calendar month period and expenses incurred by IM Telecom in the provision of IM Telecom products and wireless services to the customers acquired by KonaTel. The flat monthly fee amounts to be paid by KonaTel are generally based on the number of KonaTel customers under the IM Telecom license platform as follows: \$10,000, if less than 100,000 KonaTel customers; \$20,000 if 100,000 KonaTel customers, but less than 250,000 KonaTel customers; and \$30,000 if 250,000 KonaTel customers (the "KonaTel Flat Fee"). The KonaTel Flat Fee amounts above will be determined on a monthly basis and based on the applicable number of the KonaTel customers for such monthly period.

The Distribution Agreement also contains various additional provisions. A copy of the Distribution Agreement is attached hereto as Exhibit 10.3 and is incorporated herein by reference in Item 9.01 below, and should be fully considered in reviewing the foregoing summary. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Management Agreement.

Amended and Restated Operating Agreement

On January 18, 2024, KonaTel and Excess have entered into an Amended and Restated Operating Agreement for IM Telecom (the "Operating Agreement") to document the respective ownership of the Membership Interest. Pursuant to the Operating Agreement, KonaTel owns 51% of the Membership Interest in IM Telecom and Excess owns 49% of the Membership Interest in IM Telecom. The Operating Agreement provides that cash proceeds that IM Telecom receives for its own account resulting from the operation of the Business of IM Telecom, including, without limitation, any funds received for claims for reimbursements from USAC under the Lifeline Program administered by USAC and state Lifeline administrators (and any funds received under the Affordable Connectivity Program) and any other amounts owed or paid by IM Telecom's customers, any sale, exchange, or other dispositions of property, including condemnation or casualty will be distributed to KonaTel and Excess. Such proceeds will be apportioned between KonaTel and Excess based on receipts arising from their respective customers and subscribers under the IM Telecom platform as opposed to the equity Membership Interest percentages of KonaTel and Excess in IM Telecom. The payment of such proceeds will be adjusted for (i) operating charges and expenses (which shall not include any depreciation or amortization deductions) included in computing tax profits and losses, (ii) the payment of all expenses of IM Telecom incident to the transactions resulting in such proceeds, (iii) the payment of debts and liabilities of IM Telecom then due and outstanding, and (iv) the establishment of any reserves that Excess reasonably elects to maintain subject to certain terms therein.

As of January 18, 2024, KonaTel and Excess are the only members of IM Telecom under the Operating Agreement (each a "Member" and collectively the "Members"). Following the Initial Closing under the Purchase Agreement, the parties acknowledge that the effect of Purchase Agreement will result in Excess having a book capital account of \$15,000,000, and KonaTel having a book Capital Account of \$0.00.

Pursuant to the Operating Agreement, IM Telecom will be managed in accordance with the operational terms in the Management Agreement described above. In general and subject to certain terms under the Operating Agreement, no Member, acting solely in the capacity as a Member, is permitted to participate in the management or conduct of the IM Telecom's business, operations or affairs, except with respect to those matters requiring the approval of Members whose aggregate percentage Membership Interests in IM Telecom equals or exceeds Seventy-Five Percent (75%) of all Membership Interests or any other vote, consent or approval of the Members as expressly set forth in the Operating Agreement or applicable law.

The Operating Agreement allows each Member (KonaTel and Excess) to engage or invest in any activity even if it directly or indirectly competes with IM Telecom, and neither IM Telecom nor any Member shall have any right in or to such other activities or to the income or proceeds derived by such parties outside the business of IM Telecom. For a period of three (3) years after a Member is no longer a Member of IM Telecom (the "Restricted Period"), such Member may not directly or indirectly do any of the following: (i) intentionally solicit, call on, divert, take away, influence or induce any of the other Member's (the "Other Member") (a) clients, customers or distributors or prospective customers or distributors (wherever located) with respect to goods, products or services that are competitive with the Other Member's business, or (b) suppliers or vendors or prospective suppliers or vendors (wherever located) to supply materials, resources or services to be used in connection with goods or services that are competitive with those of the Other Member's business, or in a manner that would materially and

adversely affect the Other Member's relationship with such persons; (ii) hire, solicit, or take away any person or entity who or which was an employee of or service provider or consultant to the Other Member within the twelve (12) month period prior to the date of such hiring, solicitation or taking away, or is or becomes at any time during the Restricted Period an employee or service provider or consultant of the Other Member or any of its affiliates or related parties; or (iii) directly or indirectly assist any person or entity to take or attempt or offer to take any of the foregoing actions; provided, the foregoing provisions will not be deemed or construed to restrict general solicitations that may, without specific intent, violate the foregoing terms above.

In general, the other operational and tax matters in the Operating Agreement require the cooperation of the Members. However, the approval of KonaTel is required for any amendment to the Purchase Agreement, the Management Agreement or any compromise of any claim on behalf of IM Telecom with respect to a breach by Excess under the Purchase Agreement or the Management Agreement. In managing the Business and day-to-day affairs of IM Telecom and in carrying out the respective duties of the Members in connection therewith, the members are required to act in good faith.

Distributable proceeds resulting from ordinary operations of the IM Telecom will be specifically allocated and distributed to KonaTel and Excess in proportion to their respective entitlement to the distributions of cashflow pursuant to and under the Management Agreement.

In general, no Member may transfer, for consideration or by way of gift, bequest or otherwise, all or any part of its Membership Interest, whether or not any change in record or beneficial ownership occurs, nor may all or any part of his, her or its Membership Interest be made subject to execution, attachment or similar process, either voluntarily, involuntarily or by operation of law without the approval of the Members. However, under certain circumstances, the Members may transfer economic interests in IM Telecom to third parties. Upon the Member's approval, IM Telecom may be dissolved.

The Members of IM Telecom expect and intend applicable taxing authorities to treat IM Telecom as a partnership for income tax purposes. Under the Operating Agreement, the Members agree that they shall not (i) take a position, or make any assertion, on any federal, state, local or other Tax return that is inconsistent with such expectation or intent, or (ii) make any election or do any act or thing that could cause IM Telecom to be treated as other than a partnership for income tax purposes. The Operating Agreement includes customary terms for arbitration of disputes, tax reporting, indemnification and maintenance and review of books and records of IM Telecom.

The Operating Agreement also contains various additional provisions. A copy of the Operating Agreement is attached hereto as Exhibit 10.3 and is incorporated herein by reference in Item 9.01 below, and should be fully considered in reviewing the foregoing summary. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Management Agreement.

Other Matters

Sale of Tempo Telecom Contract Rights

On January 24, 2023, KonaTel entered into a non-material Membership Interest Purchase Agreement to acquire 100% of Tempo Telecom, LLC, a Georgia limited liability company, an Eligible Telecommunications Carrier ("ETC"), authorized to provide Lifeline services in twenty-one (21) states (respectively, the "Tempo Purchase Agreement" and "Tempo"), the closing of which is subject to the approval of the FCC and applicable state and other governmental agencies, among other conditions.

On April 6, 2023, pursuant to a Purchase of Contract Rights Agreement between KonaTel and Insight Mobile, Inc., a Delaware corporation (respectively, the "Insight Mobile Agreement" and "Insight Mobile"), KonaTel and Insight Mobile executed and delivered an Assumption of Membership Interest Purchase Agreement (the "Assignment Agreement"), which is being held in escrow by counsel for Insight Mobile (the "Escrow Agent") pending satisfaction of all conditions to the Closing of the Purchase Agreement, and whereby Insight Mobile has agreed to pay KonaTel a Purchase Price of \$4,500,000 for KonaTel's "Contract Rights" under the Tempo Purchase Agreement. Filings for FCC approval of the Tempo Purchase Agreement and the Assignment Agreement were filed with the FCC in May, 2023, and such approvals generally require approximately one (1) year or more to obtain.

Nothing contained in this Current Report related to the agreements with Excess has any effect on the rights of KonaTel to the \$4,500,000 Purchase Price under the Insight Mobile Agreement and the Assignment Agreement. For additional information on the Insight Mobile Agreement and the Assignment Agreement, see the 8-K Current Report dated April 6, 2023, and filed with the SEC on April 17, 2023, which is Hyperlinked in Item 9.01 below and is incorporated herein by reference.

On January 23, 2024, Insight Mobile exercised its rights under Section 1.07 of the referenced Membership Interest Purchase Agreement regarding a “Notice of Extension of Closing Condition-Governmental Approvals, seeking an extension of 180 days for closing or such longer period as may be required to satisfy the required Governmental Approvals to closing.

ACP Financing Installment Sale Agreement

Effective December 18, 2023, KonaTel and IM Telecom, as Purchasers, entered into an Installment Sale Agreement (the “Installment Sale Agreement”) with ACP Financing VII Limited Liability Company, a Texas limited liability company (“ACP Financing”), as Seller, pursuant to which Seller has agreed to purchase new and refurbished cellular devices for distribution through the Purchaser’s distribution network to Affordable Connectivity Program Federal Lifeline and California Lifeline eligible consumers, such devices operating on 4G or better technology platforms or any such other consumer technology equipment upon the mutual agreement of Seller and Purchaser (the “Devices”), and to sell such Devices to Purchaser. KonaTel plans to novate this Installment Sale Agreement to its use following the payment of any outstanding amounts owed to ACP Financing on the Initial Closing of the Purchase Agreement with Excess. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Installment Sale Agreement. For additional information on the Installment Sale Agreement, see the 8-K Current Report dated December 18, 2023, and filed with the SEC on December 22, 2023, which is Hyperlinked in Item 9.01 below and is incorporated herein by reference. The total liability of KonaTel under the Installment Sale Agreement at January 29, 2024, is approximately \$1,462,345 in principal and an additional \$25,000 in attorney’s fees, which is referenced above under the description of the Initial Closing Date of the Purchase Agreement between KonaTel and Excess.

Section 9 – Financial Statements and Exhibits

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits:

<u>Exhibit No.</u>	<u>Description of Exhibit</u>
10.1	Membership Interest Purchase Agreement
10.2	Management Agreement
10.3	Master Distribution Agreement
10.4	Amended and Restated Operating Agreement

[8-K Current Report dated June 14, 2022, and filed with the SEC on June 21, 2022 \(CCUR Loan\)](#)

[8-KA Current Report dated June 14, 2022, and filed with the SEC on June 7, 2023 \(CCUR Loan\)](#)

[8-K Current Report of the Company dated April 6, 2023, and filed with the SEC on April 17, 2023 \(Insight Mobile Agreement-Assignment Agreement-Tempo\)](#)

[8-K Current Report dated December 18, 2023, and filed with the SEC on December 22, 2023 \(ACP Financing Installment Sale Agreement\)](#)

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Company has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

KonaTel, Inc.

Date: January 30, 2024

By: /s/ D. Sean McEwen
D. Sean McEwen
Chairman and Chief Executive Officer