

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE PETITION OF IM TELECOM)
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER IN THE STATE) Docket No. TC16-001
OF SOUTH DAKOTA AND WAIVER OF CERTAIN)
RULES)**

SDTA Petition to Intervene

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL § 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. On or about January 19, 2016, IM Telecom, LLC d/b/a Infiniti Mobile (hereinafter referenced as "Infiniti Mobile") filed a Petition with the Commission seeking designation as an Eligible Telecommunications Carrier ("ETC") for the purpose of offering Lifeline Services on a prepaid wireless basis throughout the State of South Dakota. Infiniti Mobile has specifically indicated that it does not request ETC designation for the purpose of receiving high cost support from the federal Universal Service Fund ("USF").

3. Infiniti Mobile claims that it offers its resold wireless services as a "common carrier" and is seeking ETC designation for the purpose of offering Lifeline services on what appears to be a statewide basis. The company has attached as "Exhibit 7" to its Petition a list of "Wire Centers" where designation is sought providing this list as a description of its

“Coverage Area” in South Dakota. In regards to this list, SDTA does not believe it is an adequate substitute for a listing of the individual local exchange areas intended to be covered by Infiniti Mobile’s ETC designation request. Any single “Wire Center” or “Rate Center” may include multiple exchange areas depending on the local switching configuration and whether any remote switches or concentrators are used within the rate center area.

4. All of the SDTA member companies operate as "rural telephone companies" for purposes of the Federal Telecommunications Act of 1996 and under applicable state laws. SDTA seeks intervention herein based on the individual interests of each of its affected member ILECs and also based on the common interests of all SDTA member companies in ensuring that the additional public interest protections contained in the federal and state laws, pertaining to ETC designations in rural service areas, are properly considered and applied.

5. SDTA has concerns with the requested ETC designation. In regards to any Petition for ETC Designation extending to rural service areas the additional "public interest" requirement set forth in 47 U.S.C. § 214(e)(2) and SDCL § 49-31-78 applies and state commissions are not obligated to grant multiple ETC designations in such areas. SDTA questions whether granting the additional ETC designation requested by Infiniti Mobile would at this time be in the best interest of South Dakota consumers residing in the impacted SDTA member company rural service areas. As the FCC has appropriately noted, the Lifeline program does play a role in assisting with telecommunications infrastructure deployment in high cost areas and that role has become more critical as rural rate-of-return carriers face greater financial pressures resulting from FCC reforms that have reduced federal high cost

funding and inter-carrier compensation revenues.¹ In addition, as this Commission is well aware, at present the FCC has not yet adopted a "Connect America Fund" mechanism for rural carriers allowing such companies to receive support for stand-alone broadband services. High cost funding is only available to rural carriers if wireline "circuit-switched" or "TDM" voice services are subscribed to by the end user customer. This being the case, to the extent any additional ETC designation within a rural carrier service area, even for Lifeline only purposes, causes end user customers to abandon existing wireline voice services, the incumbent rural carrier's end user revenues and high cost funding revenues are impacted and continued broadband infrastructure deployment is put at risk.

6. Further, it should be noted that even though the FCC has taken action forbearing from the requirement that the service area of a competitive Lifeline ETC conform to the existing rural telephone company service area (eliminating the need to separately obtain a separate service area redefinition as part of the ETC designation process) this Commission's ability to fully review and consider all facts relevant to the public interest in ruling on Infiti Mobile's requested ETC designation, as it applies to rural service areas, has not been preempted.² As stated by the FCC, "[t]he Act already requires designating commissions to affirmatively determine that designating a carrier as an ETC within a rural service area is in the public interest and that determination is not affected by this grant of forbearance. As a

¹ *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking (released June 30, 2000).

² *In the Matter of Telecommunications Carriers Eligible for Support*, WC Docket No. 09-197, *In the Matter of Lifeline and Link Up Reform*, WC Docket No. 11-42, Memorandum Opinion and Order, FCC 13-44 (released April 15, 2013).

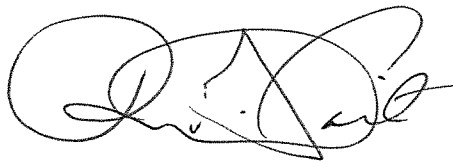
result, any concerns raised by a rural telephone company will be evaluated by the designating authority when considering designating a limited, Lifeline only ETC.”³

7. In addition, SDTA would note that there is good reason to question whether Ininiti Mobile is positioned to make its Lifeline services available throughout all of the areas where it is seeking ETC designation. The company indicates in its Petition, on page 3, that it “provides its prepaid wireless telecommunications services to consumers by using the Sprint Spectrum, L.P. (“Sprint”) network on a wholesale basis . . .” Currently, Sprint’s wireless service coverage in South Dakota is very limited, confined generally to the far eastern part of the State, along portions of the Interstate 29 corridor. Many of the wire center areas listed on Exhibit 7 to the Petition are simply not covered by Sprint’s wireless footprint in the State.

8. Based on all of the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status.

Dated this 5th day of February, 2016.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard D. Coit", with a stylized flourish at the end.

Richard D. Coit
Executive Director and General Counsel
SDTA

³ *Id.* At par. 13, p. 7.