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

Petition of i-wireless, LLC)
for Designation as an Eligible Telecommunications)
Carrier in the State of South Dakota)

Docket No. _____

**PETITION OF I-WIRELESS, LLC
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
IN THE STATE OF SOUTH DAKOTA**

I. INTRODUCTION

i-wireless, LLC (“i-wireless” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)¹ and Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),² and the rules and regulations of the South Dakota Public Utilities Commission (the “Commission”),³ hereby petitions for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of South Dakota. Pursuant to ARSD 20:10:32:56, i-wireless also hereby petitions for waiver of ARSD 20:10:32:43.01(2), ARSD 20:10:32:43.02 and ARSD 20:10:32:54(1-2), as discussed in section IV.M.1 below. i-wireless seeks ETC designation solely to provide Lifeline service to qualifying South Dakota households; it will not seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of participating in the Link-Up program or providing service to high cost areas.⁴ As demonstrated herein, and as certified in Exhibit 1, i-wireless meets all the statutory and regulatory requirements for

¹ 47 U.S.C. § 214(e)(2).

² 47 C.F.R. §§ 54.101-54.207.

³ See South Dakota Codified Laws (SDCL) 49-31-78 and South Dakota Administrative Rules (ARSD) 20:10:32:43.

⁴ Given that the Company only seeks Lifeline support from the low-income program and does not seek any high-cost support, ETC certification requirements for the high-cost program are not applicable to the Company.

designation as an ETC in the State of South Dakota, including the new requirements outlined in the FCC's *Lifeline and Link Up Reform Order*.⁵ Rapid grant of i-wireless' request, moreover, would advance the public interest because it would enable the Company to commence much needed Lifeline services to low-income South Dakota residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve this petition for ETC designation. The proposed effective date of the designation of ETC status is immediately upon the date the Commission approves the Petition.

The name, address, and telephone number of the Applicant and its designated contact person is as follows:

Paul McAleese, CEO
i-wireless, LLC
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Newport, Kentucky 41071
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All correspondence, communications, pleadings, notices, orders and decisions relating to this Petition should be addressed to:

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⁵ *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline and Link Up Reform Order*").

II. UNIVERSAL SERVICE OFFERING

A. Company Overview

i-wireless is a North Carolina Limited Liability Company.⁶ Its principal office is located at 1 Levee Way, Suite 3104, Newport, Kentucky 41071. i-wireless is a reseller of commercial mobile radio service (“CMRS”) throughout the United States. i-wireless provides prepaid wireless telecommunications services to consumers by using the Sprint Spectrum, L.P. (“Sprint”) network on a wholesale basis to offer nationwide service. i-wireless obtains from Sprint the network infrastructure and wireless transmission facilities to allow the Company to operate as a Mobile Virtual Network Operator (“MVNO”). i-wireless has been designated as an ETC in Arkansas, Arizona, Colorado, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, Ohio, South Carolina, Texas, Utah, Washington, West Virginia and Wisconsin, and by the FCC in Alabama, Connecticut, Delaware, District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, and Virginia.⁷ i-wireless currently has applications for ETC designation pending with California, Massachusetts, Nebraska, New Jersey, New Mexico, Oregon, Pennsylvania, and Rhode Island; no such petitions have been denied.

i-wireless’ prepaid wireless services that are affordable and easy to use are attractive to low-income and lower-volume consumers, providing them with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family and for contacting prospective employers. i-wireless offers consumers simple and affordable prepaid calling plans, a variety of prepaid service plans, easy-to-

⁶ i-wireless was organized in the State of North Carolina on September 7, 2006.

⁷ See *In the Matter of Federal-State Joint Board on Universal Service, i-wireless, LLC Petition for Limited Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia*, WC Docket No. 09-197, Order, DA 12-934 (rel. June 13, 2012).

use handsets and high-quality customer service. Given its pricing and marketing strategy and the demographics of other, similar MVNOs' customers, i-wireless anticipates that many of its customers will be from low-income backgrounds and will not previously have enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. i-wireless does not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service.

By providing affordable wireless plans and quality customer service to consumers who are otherwise unable to afford them, or were previously ignored by traditional carriers, i-wireless will expand the availability of wireless services to many more consumers, which is the principal reason that Congress created the universal service program.

B. Proposed Lifeline Plans

i-wireless has the ability to provide all services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)) throughout South Dakota. i-wireless intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice usage at all price points. The Company's Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other i-wireless prepaid customers, with one notable exception: prepaid Lifeline services will not require payment of an out-of-pocket fee by subscribers, but instead, i-wireless will receive support from the Lifeline program as compensation for providing those services.

i-wireless will provide Lifeline service under the brand name "Access Wireless." As Exhibit 2 demonstrates, i-wireless' Lifeline service offering proposes to give eligible customers the following Lifeline Plan choices:⁸

1. 250 Free Minutes Plan (non-tribal). Eligible non-tribal customers enjoy a free handset and 250 anytime minutes per month.
2. Unlimited Free Voice Minutes Plan (tribal only). Eligible tribal customers enjoy a free handset and unlimited voice minutes per month.
3. Retail Discount Plan. The second option allows Lifeline eligible customers to choose from any i-wireless monthly retail plan⁹ at a discount - \$15 for non-tribal customers or \$40 for tribal customers.¹⁰

Customers can change their plan on their monthly plan date, without penalty, should they determine that another plan better meets their needs or if their needs change. i-wireless does not impose burdensome credit checks or long-term service contracts. Furthermore, i-wireless does not assess charges for activation or connection of service. Minutes are credited to a customer's account at the beginning of every 30-day cycle, which is initiated on their Lifeline activation date. A customer's handset does not have to be "on" to receive minutes, as i-wireless' operations are system-based, not handset-based. Customers may place calls to customer service and 911 for free, regardless of account balance or activation status.

⁸ i-wireless' Lifeline terms and conditions are available at www.accesswireless.com; i-wireless' retail terms and conditions are available at www.iwirelesshome.com.

⁹ Except a Text Only Plan.

¹⁰ i-wireless currently offers a \$15 discount for non-tribal and \$40 discount for tribal; however, the Company may re-evaluate the discount applied to its retail plans based on the outcome of the FNPRM regarding a change in the federal Lifeline support amount. *See Lifeline and Link Up Reform Order* Section XIII.D. i-wireless commits that it will continue to offer a Lifeline discount at a minimum equal to the federal Lifeline support amount, plus any state funds, if applicable.

In addition to discounted voice services, prepaid Lifeline customers also will have access to voice mail, caller I.D. and call waiting features at no additional charge, even after their initial allotment of included minutes has been consumed. Customers are not bound by a local calling area requirement; all i-wireless plans come with domestic long distance at no extra charge and exceptional nationwide digital coverage on the Nationwide Sprint PCS Network. i-wireless does not decrement minutes for balance inquiries or calls placed to customer service. i-wireless Lifeline customers will have access to the same exceptional customer care provided to retail customers. The Company contracts with a high quality, U.S. domestic customer care group whose hold time is among the lowest in the prepaid wireless industry.

Lifeline customers can purchase additional airtime if needed. Additional airtime may be purchased at over the phone (by calling the IVR or through customer care interface) or online; airtime cards are sold in denominations of \$10, \$25 and \$50 and include a set number of minutes with unlimited text messaging for a period of time and a preset amount of mobile internet access and picture mail. The chart in Exhibit 2 provides details for each card denomination.¹¹ i-wireless sends low and depleted balance alerts in the form of a free text message to the customer, and also alerts the customer through a free text message when minutes have been added to their account.

C. Plan Enrollment

Customers interested in obtaining information on the Lifeline program will be directed to a toll-free telephone number and to the Company's website, which will contain information regarding the Company's Lifeline service plan, including a detailed description of the program and state-specific eligibility criteria. Customers may then request that a Lifeline enrollment form

¹¹ i-wireless may run promotions from time to time to increase the amount of minutes, texts and/or data included.

be mailed to them, or they can download a form from the internet. The certification form, a sample of which is attached hereto as Exhibit 3, will explain in clear, easily understandable language that:

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

The Company's certification form will also require all consumers, at sign up and annually thereafter, to provide the information and certifications, under penalty of perjury, required by revised CFR § 54.410(d).¹² See Exhibit 5 for more detailed enrollment information. i-wireless will annually re-certify the continued eligibility of all of its subscribers.

D. Prevention of Waste, Fraud and Abuse

i-wireless recognizes the importance of safeguarding the USF. Therefore, the Company has implemented the following 60-day non-usage policy in an effort to avoid waste, fraud, and abuse of the program. i-wireless will not seek reimbursement from the USF for inactive subscribers who have not used the service for a consecutive 60-day period.¹³ i-wireless will notify its subscribers at service initiation about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time.¹⁴ An account will be considered active if during any 60-day period

¹² See *Lifeline and Link Up Reform Order* page 227-29.

¹³ See *Lifeline and Link Up Reform Order* at ¶ 257.

¹⁴ See *id.*

the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from the Company to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call from anyone other than the Company, its representative, or agent; or affirmatively responds to a direct contact from the Company confirming that he or she wants to continue.¹⁵ i-wireless will provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage; such notice may be given after 30 days of non-usage. Customers that have been deactivated may participate in the Company's Lifeline service in the future by reapplying and re-establishing eligibility.

To further protect the integrity of the USF, i-wireless has contracted with CGM, LLC of Roswell, Georgia, a lifeline service bureau, to edit all subsidy request data. CGM will process and validate the Company's subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from the Company will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) Inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described above, i-wireless ensures that it does not over-request from support funds.

¹⁵ See *Lifeline and Link Up Reform Order* at ¶ 261.

III. THE COMMISSION HAS JURISDICTION TO DESIGNATE WIRELESS ETCs

Section 214(e)(2) of the Act provides state public utility commissions with the “primary responsibility” for the designation of ETCs.¹⁶ Although Section 332(c)(3)(A) of the Act prohibits states from regulating the entry of or the rates charged by any provider of commercial mobile service or any private mobile service, this prohibition does not allow states to deny wireless carriers ETC status.¹⁷ Therefore, the Commission has the authority to designate i-wireless as an ETC. Pursuant to this authority, the Commission has historically participated in determining whether to grant ETC status to an applying carrier, including any requesting wireless carrier. Under the Act, a state public utility commission with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of Section 214(e)(1). i-wireless recognizes that Section 214(e)(1)(A) of the Act states that ETCs shall offer services, at least in part, over their own facilities and that Section 54.201(i) of the FCC’s Rules (47 C.F.R. § 54.201(i)) prohibits state commissions from designating as an ETC a telecommunications carrier that offers services exclusively through the resale of another carrier’s services. However, on April 1, 2009, i-wireless filed with the FCC a petition requesting that the FCC exercise its forbearance authority under Section 10 of the Act (47 U.S.C. § 160) with respect to the facilities-based service requirement.¹⁸ The FCC granted the *Petition for Forbearance* for the purposes of participating in the Lifeline program in an Order dated June 25, 2010. Section 10(e) of the Act (47 U.S.C. § 160(e)) provides: “[a] State commission may not continue to apply or enforce any provision of this chapter that the [Federal

¹⁶ 47 U.S.C. § 214(e)(2).

¹⁷ See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) (“USF Order”).

¹⁸ See *i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, filed Apr. 1, 2009, (“*Petition for Forbearance*”), Order, FCC 10-117 (rel. June 25, 2010) (“*i-wireless Forbearance Order*”). A copy of the *i-wireless Forbearance Order* is attached hereto as Exhibit 4.

Communications] Commission has determined to forbear from applying under subsection (a) of this section.” As such, the Commission is required by Section 10(e) to act in accordance with the FCC’s grant of forbearance, and therefore may not apply the facilities-based requirement to i-wireless. Therefore, the Commission has the authority under Section 214(e)(2) of the Act to grant i-wireless’ request for designation as an ETC throughout the State of South Dakota.

IV. I-WIRELESS SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.” Section 214(e)(2) of the Act authorizes state commissions, such as the Commission, to designate ETC status for federal universal service purposes and authorizes the Commission to designate wireless ETCs.¹⁹ Section 214(e)(1) of the Act and Section 54.201(d) of the FCC’s rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier’s services, except where the FCC has forbore from the “own facilities” requirement. Applicants also must commit to advertise the availability and rates of such services.²⁰ As detailed below, i-wireless satisfies each of the above-listed requirements.

A. i-wireless Will Provide Service Consistent with the FCC’s Grant of Forbearance from Section 214’s Facilities Requirements

In the *i-wireless Forbearance Order*, The FCC conditionally granted i-wireless’ *Petition for Forbearance* from the facilities requirement, “given the importance of public safety and in light of the fact that a Lifeline ETC is generally a low-income customer’s only connection to the

¹⁹ *USF Order*, at 8858-59, ¶ 145.

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

public switched telephone network.”²¹ The FCC further explained that “requiring a Lifeline provider to own the facilities it uses to offer service does not necessarily further the statutory goal of the low-income program.”²²

The FCC specifically conditioned its grant of forbearance on i-wireless as follows:

(a) i-wireless providing its Lifeline customers with basic 911 and enhanced 911 (“E911”) access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its new Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; (d) i-wireless obtaining a certification from each Public Service Answering Point (“PSAP”) where i-wireless seeks to provide Lifeline service confirming that i-wireless provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple i-wireless Lifeline subsidies at the same address, and (g) i-wireless dealing directly with the customer to certify and verify the customer’s Lifeline eligibility. The FCC required i-wireless to submit a plan describing the measures it would take to implement each of these conditions.²³

In accordance with the *i-wireless Forbearance Order*, i-wireless filed its Compliance Plan which the FCC approved on October 21, 2011.²⁴ A copy of the revised Compliance Plan, as approved, is attached hereto as Exhibit 5. i-wireless commits to providing service in South Dakota in accordance with its Compliance Plan and in accordance with the *Lifeline and Link Up Reform Order*.

Consistent with paragraph 383 of the *Lifeline and Link Up Reform Order*, i-wireless will no longer follow the PSAP certification process outlined in the Company’s forbearance order

²¹ *i-wireless Forbearance Order* ¶ 11.

²² *Id.* ¶ 15.

²³ *See i-wireless Forbearance Order* ¶ 16.

²⁴ *See* i-wireless LLC’s Revised Compliance Plan, CC Docket No. 96-45, WC Docket No. 09-197 (filed Sept. 9, 2011) (“Compliance Plan”); *i-wireless, LLC Petition for Forbearance from 47 USC. §214(e)(1)(A)*, CC Docket No. 96-45, WC Docket No. 09-197, DA 11-1763, 2011 WL 5038791 (rel. Oct. 21, 2011) (“*Compliance Plan Order*”).

and Compliance Plan. i-wireless will, however, continue to comply with applicable 911/E911 public safety obligations, including 47 C.F.R. § 20.18(m), the requirement to provide 911-enabled handsets, and any state-imposed requirements.²⁵

B. i-wireless Is a Common Carrier

CMRS resellers like i-wireless are treated as common carriers.²⁶

C. i-wireless Will Provide All Required Services and Functionalities

Through its wholesale arrangement with Sprint, i-wireless is able to provide all of the services and functionalities required by Section 54.101(a) and Section 54.202(a) of the FCC's Rules (47 C.F.R. § 54.101(a) and 47 C.F.R. § 54.202(a)) including the following:

1. Voice Grade Access to the Public Switched Telephone Network

i-wireless provides voice grade access to the public switched telephone network ("PSTN") through the purchase of wholesale CMRS services from Sprint.

2. Minutes of Use for Local Service

As part of the voice grade access to the PSTN, an ETC must provide minutes of use for local service at no additional charge to end-users. The FCC has not specified a minimum amount of local usage that an ETC must offer.²⁷ i-wireless offers a variety of rate plans that provide its customers with minutes of use for local service at no additional charge.

²⁵ See *Lifeline and Link-up Reform Order*, ¶ 375.

²⁶ *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory "mobile services" category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) ("mobile services" providers are common carriers); see also *PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) ("We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services *and resellers of such services*." (emphasis added)).

²⁷ See e.g., *In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision 15 FCC Rcd 7331 (2002).

3. Access to Emergency Services

i-wireless provides 911 and E911 access for all of its customers to the extent the local government in its service area has implemented 911 or E911 systems. i-wireless also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets.

4. Toll Limitation for Qualified Low-Income Customers

In its *Lifeline and Link Up Reform Order*, the FCC stated that toll limitation would no longer be deemed a supported service.²⁸ "ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls."²⁹ Nonetheless, i-wireless' offerings inherently allow Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid, or pay-as-you-go, basis. i-wireless' service, moreover, is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same. i-wireless will not seek reimbursement for toll limitation service.

5. Other Services

While no longer required by 47 C.F.R. § 54.101(a), i-wireless provides dual tone multi-frequency ("DTMF") signaling to expedite the transmission of call set up and call detail information throughout the network, single party service for the duration of each telephone call and not multi-party (or "party-line") services, access to operator services, the ability to make interexchange, or long distance, telephone calls, and access to directory assistance services by dialing "411" from the provided wireless handsets.

²⁸ See *Lifeline and Link Up Reform Order* at ¶ 367.

²⁹ See *id.* at ¶ 49.

D. i-wireless Will Advertise the Availability of Supported Services

i-wireless will advertise the availability and rates for the services described above using media of general distribution as required by 47 C.F.R § 54.201(d)(2). i-wireless' advertising will comply with the requirements set forth in the *Lifeline and Link Up Reform Order*, as outlined in the Company's Compliance Plan, and ARSD 20:10:32:55.³⁰ The Company will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline service. Consumers will be made aware of a toll free number and website whereby they can apply for the Company's Lifeline program. i-wireless intends to advertise its Lifeline service through mediums targeted to low-income customers, which may include printed advertisements, billboards and public transit signage.

i-wireless may also promote the availability of its Lifeline offering by distributing brochures at various state and local social service agencies, and may partner with nonprofit assistance organizations in order to inform customers of the availability of its Lifeline service. In addition, i-wireless will utilize its network of retail partners to help promote the availability of its Lifeline plans, especially those retail outlets that are frequented by low income consumers. i-wireless will provide retail vendors with signage to be displayed where Company products are sold, and with printed materials describing the Company's Lifeline program.³¹

i-wireless will explain in clear, easily understood language the following disclosures in all marketing materials related to the supported service: (1) the offering is a Lifeline-supported service; (2) only eligible consumers may enroll in the program; (3) the program is limited to one benefit per household, consisting of either wireline or wireless service; and (4) Lifeline is a government benefit program. i-wireless' website and printed collateral will explain the

³⁰ See *Lifeline and Link Up Reform Order* at Section VII.F.

³¹ See attached Exhibit 6 for a sample advertisement.

documentation necessary for enrollment, and the details of i-wireless' plans. Such collateral and website information, as well as its application, will make clear that consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program.³² For broadcast advertisements and outdoor signs, and any other situation in which inclusion of documentation information and warnings against willful false statements are not practicable, i-wireless will include the URL link for its website where disclosures will be listed. Additionally, i-wireless will disclose the company name under which it does business and the details of its Lifeline service offerings in any Lifeline-related marketing and advertising.³³

Statistics suggest that there are many eligible customers who are not yet aware of the programs. According to the best data available to the Company, as of December 31, 2011, fewer than 20% of consumers eligible for Lifeline Services in the State of South Dakota were being provided such services.³⁴ i-wireless believes that its advertising and outreach efforts detailed above will result in increased participation in the Lifeline program.

E. i-wireless Requests Designation Throughout Its Service Area in South Dakota

i-wireless is not a rural telephone company as defined in Section 153(37) of the Act (47 U.S.C. § 153(37)). Accordingly, i-wireless is required to describe the geographic area(s) within which it requests designation as an ETC. i-wireless requests designation as an ETC throughout the non-rural Qwest Corporation d/b/a CenturyLink exchanges in South Dakota where Sprint has coverage, as demonstrated by the wire center list and map attached hereto as Exhibit 8 pursuant

³² See *Lifeline and Link Up Reform Order* at ¶ 275.

³³ See *id.*

³⁴ See attached Exhibit 7, 2011 Lifeline Participation Rates by State, which was obtained from USAC, an independent not-for-profit corporation designated as the administrator of the federal Universal Service Fund by the FCC. USAC administers USF programs for high cost companies serving rural areas, low-income consumers, rural health care providers, and schools and libraries.

to ARSD 20:10:32:43(3).

F. Service Commitment Throughout the Proposed Designated Service Area

i-wireless provides service in South Dakota by reselling service which it obtains from its underlying facilities-based provider. The provider's network is operational and largely built out. Thus, i-wireless will be able to commence offering its Lifeline service to all locations served by its underlying carrier very soon after receiving approval from the Commission. i-wireless commits to comply with the service requirements applicable to the support that it receives.³⁵ In accordance with ARSD 20:10:32:43.01(1), i-wireless commits to provide service on a timely basis to requesting customers in its Designated Service Area where the applicant's network already passes the potential customer's premises. i-wireless requests a waiver of ARSD 20:10:32:43.01(2) as discussed in section M.1 below.

G. Ability to Remain Functional in Emergency Situations

In accordance with 47 CFR §54.202(a)(2) and ARSD 20:10:32:43.03, i-wireless, through its underlying carrier, has the ability to remain functional in emergency situations. Sprint has very robust emergency response and disaster recovery capabilities which enable quick restoration of impacted services following a disaster and mitigates congestion risks through traffic management algorithms to handle the overload surges in traffic. Additionally, their disaster recovery response teams proactively monitor congestion and performance of the wireless network and determine the appropriate course of action. Through its agreement with Sprint, i-wireless provides to its customers the same ability to remain functional in emergency situations as currently provided by Sprint to its own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, the ability to reroute

³⁵ See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a)(1)(i).

traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

H. Commitment to Consumer Protection and Service Quality

Under FCC and Commission guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.³⁶ As a reseller, i-wireless' service is of the same quality and reliability as that of its underlying carrier. The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. Specifically, i-wireless commits to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

I. Local Usage Requirement

An applicant for ETC designation is no longer required by FCC rules to demonstrate that it offers a local usage plan that is "comparable" to the plan offered by the ILEC in the relevant service territory.³⁷ Nevertheless, in accordance with ARSD 20:10:32:43.05, i-wireless customers will have the option to apply the Lifeline discount to the Company's retail rate plans and will have the option for unlimited local calling, similar to ILEC Lifeline offerings. i-wireless offers a variety of rate plans that provide its customers with local usage capabilities in the form of monthly plans, unlimited plans or pay-per-use plans—but without the burden of contracts, activation fees or roaming charges.

Not only will i-wireless' offering be comparable to the underlying ILEC plans, but it also will exceed them in several respects. i-wireless will offer customers a certain amount of service free of charge. In contrast to the ILEC plans, which contain relatively small local calling areas,

³⁶ See 47 C.F.R. § 54.202(a)(3); see also ARSD 20:10:32:43.04.

³⁷ See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a).

i-wireless customers can use these free minutes to place calls statewide (and even nationwide) because i-wireless does not constrict customers' use by imposing a local calling area requirement. i-wireless will also provide Lifeline customers with E911 capabilities and access to voice mail, caller I.D., and call waiting features at no cost. The very nature of the wireless phone, i.e. mobility, has a tremendous benefit to many consumers, a benefit to which a monetary value cannot be easily assigned.

J. Equal Access Requirement

The FCC's Rules no longer require an applicant for ETC status to provide a certification that it acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.³⁸ Nevertheless, in accordance with ARSD 20:10:32:43.06, the Company acknowledges that it may be required to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.

K. i-wireless is Financially and Technically Capable

i-wireless is financially and technically capable of providing Lifeline-supported services.³⁹ i-wireless is 50% owned by Genie Global, Inc. and 50% owned by The Kroger Co., the nation's largest grocery retail chain and the second largest retailer overall. i-wireless has been in business for 6 years and successfully provides wireless services throughout the United States, including Lifeline services in 26 states. i-wireless has not been subject to enforcement action or ETC revocation proceedings in any state. i-wireless is financially able to provide Lifeline-supported services; the Company does not, and does not intend to, offer exclusively Lifeline-supported services—and is therefore not exclusively dependent on universal service

³⁸ See *id.*

³⁹ See *Lifeline and Link Up Reform Order* at ¶ 387.

support for its revenue. Furthermore, the senior management of i-wireless has great depth in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to the Company.⁴⁰ i-wireless will be providing resold wireless service, and therefore will also rely upon the managerial and technical expertise of its underlying carrier.

L. i-wireless Will Comply with Certification and Verification Requirements

Section 54.410 of the FCC's Rules requires ETCs to certify and verify a Lifeline customer's initial and continued eligibility. i-wireless will certify and verify consumer eligibility in accordance with the FCC's requirements, with applicable Commission rules, and in accordance with its Compliance Plan, which outlines how the Company will comply with the requirements set forth in the *Lifeline and Link Up Reform Order*.

M. i-wireless Will Comply With All Regulations Imposed By The Commission

By this Petition, i-wireless hereby asserts its willingness and ability to comply with all the rules and regulations that the Commission may lawfully impose upon the Company's provision of service contemplated by this Petition, with the exception of the requirements for which waivers are requested below. i-wireless certifies that all federal USF funding received will be used for Lifeline support and will be flowed through to the direct benefit of eligible low income consumers. Upon Commission request, i-wireless is prepared to answer questions or present additional testimony or other evidence about its services within the state.

1. Waiver Requests

i-wireless requests a waiver of ARSD 20:10:32:43.02, which requires that ETCs submit a two-year service quality improvement plan ("Plan"), as well as ARSD 20:10:32:54(1-2) which would require a new Plan and a progress report on the previously filed Plan. As set forth in the

⁴⁰ See Exhibit 9 for key management bios.

Lifeline and Link Up Reform Order, a common carrier seeking designation as a Lifeline-only ETC is not required to submit a network improvement plan as part of its application for designation as an ETC.⁴¹ This guideline has no application where an applicant's requested ETC serving territory would qualify it to receive no "high cost" USF support, but only "low income" USF support. Because i-wireless seeks ETC designation solely for purposes of reimbursement for provision of subsidized Lifeline services to eligible customers, submission of a service quality improvement plan is not required.

i-wireless also requests a waiver of ARSD 20:10:32:43.01(2), which would require i-wireless to provide service within a reasonable period of time if the potential customer is within the applicant's service area but outside its existing network coverage, if service can be provided at reasonable cost by:

- i. Modifying or replacing the requesting customer's equipment;
- ii. Deploying a roof-mounted antenna or other equipment;
- iii. Adjusting the nearest cell tower;
- iv. Adjusting network or customer facilities;
- v. Reselling services from another carrier's facilities to provide service; or
- vi. Employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment

The corresponding requirement in FCC rules in effect through December 28, 2011 (i.e. 47 C.F.R. § 54.202) was recently significantly amended to remove the requirements above. Moreover, as a non-facilities based Lifeline-only ETC provider that relies on the networks of its underlying service provider(s), such as Sprint, it is not possible for i-wireless to make the modifications set forth in ARSD 20:10:32:43.01(2) to the underlying network, or to extend certain facilities, in order to reach a customer outside of its existing network coverage.

⁴¹ See *Lifeline and Link Up Reform Order* at ¶ 386.

V. DESIGNATION OF I-WIRELESS AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.⁴² Designation of i-wireless as an ETC in South Dakota will further the public interest by providing South Dakota consumers, especially low-income consumers, with low prices and high quality services. Many low-income customers in South Dakota have yet to reap the full benefits of the intensely competitive wireless market. Whether because of financial constraints, poor credit history or intermittent employment, these consumers often lack the countless choices available to most consumers.

The instant request for ETC designation must be examined in light of the Act’s goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating i-wireless as an ETC would significantly benefit low-income consumers eligible for Lifeline services in the State of South Dakota—the intended beneficiaries of universal service.

A. Advantages of i-wireless’ Service Offering

The public interest benefits of the Company’s wireless service include larger local calling areas (as compared to traditional wireline carriers), the convenience and security afforded by mobile telephone service, the opportunity for customers to control cost by receiving a preset amount of monthly airtime at no charge, the ability to purchase additional usage at flexible and affordable amounts in the event that included usage has been exhausted, 911 service and, where

⁴² *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

available, E911 service in accordance with current FCC requirements. i-wireless' Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Company customers. i-wireless' Lifeline rate plans will not only allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber, but also will bring a variety of rate plans into the reach of Lifeline customers that are comparable in minutes and features to those available to post-paid wireless subscribers – but at low Lifeline rates and without the burden of credit checks, contracts, or activation fees.

i-wireless' Lifeline program will provide low-income South Dakota residents with the convenience and security offered by wireless services—even if their financial position deteriorates. The economic circumstances indicate that low-income individuals, now more than ever, can greatly benefit from the advantages offered by the Company's Lifeline service, thus allowing those adversely impacted by the failing economy or job loss to have access to a wholly-supported wireless service to assist in emergency situations, facilitate job search efforts, and to maintain contact with family members.

It is also a commonly accepted fact that in today's market all consumers, including qualified Lifeline customers, view the portability and convenience of wireless service not as a luxury, but as a necessity. Mobile service allows children to reach their parents, wherever they may be, allows a person seeking employment the ability to be contacted by potential employers, and provides end users with the ability to contact emergency service providers, regardless of location. Providing i-wireless with the authority necessary to offer discounted Lifeline service to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

Moreover, grant of i-wireless' Petition will serve the public interest in increasing the number of ETCs in South Dakota. By granting ETC status to i-wireless, the Commission will enable the Company to increase the number of South Dakota residents receiving Lifeline support, thereby increasing the amount of USF money flowing into South Dakota. In sum, ETC designation in the State of South Dakota would enable i-wireless to provide all of the public benefits cited by the FCC in its analysis in the *Virgin Mobile Order*. Namely, i-wireless would provide "increased consumer choice, high-quality service offerings, and mobility,"⁴³ as well as the safety and security of effective 911 and E911 services.⁴⁴

B. The Benefits of Competitive Choice

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than three decades.⁴⁵ Designation of i-wireless as an ETC will promote competition and innovation, and spur other carriers to target low-income consumers with service offerings tailored to their needs and to improve their existing networks to remain competitive, resulting in improved services to consumers. Designation of i-wireless as an ETC will help assure that quality services are available at "just, reasonable, and affordable rates" as envisioned in the Act.⁴⁶ Introducing i-wireless into the market as an additional wireless ETC provider will afford low income South Dakota residents a wider choice of providers and available services while enhancing the competitive marketplace as ETCs compete for a finite number of Lifeline-eligible customers. Increasing the competitive marketplace of providers has the potential to effectively increase the penetration rate and reduce the number of individuals not connected to the PSTN.

⁴³ See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

⁴⁴ See *Id.* at 3391 ¶ 23.

⁴⁵ See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

⁴⁶ See 47 U.S.C. § 254(b)(1).

C. Impact on the Universal Service Fund

With Lifeline, ETCs only receive support for customers they obtain. The amount of support available to an eligible subscriber is exactly the same whether the support is given through a company such as i-wireless or the Incumbent LEC operating in the same service area. i-wireless will only increase the amount of USF Lifeline funding in situations where it obtains Lifeline customers not enrolled in another ETC's Lifeline program. By implementing the safeguards set forth in the *Lifeline and Link-Up Reform Order*, i-wireless will minimize the likelihood that its customers are not eligible or are receiving duplicative support either individually or within their household. Significantly, the Company's designation as an ETC will not increase the number of persons eligible for Lifeline support. i-wireless' ability to increase the Lifeline participation rate of qualified low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service, and thus any incremental increases in Lifeline expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers. According to the FCC, "the additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest," and "A new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance in the context of the Lifeline program outweighs the potential costs."⁴⁷

VI. ANTI-DRUG ABUSE CERTIFICATION

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

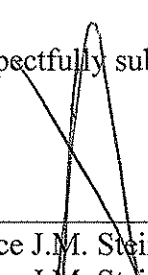
⁴⁷ See *i-wireless Forbearance Order* at ¶ 19.

VII. CONCLUSION

Based on the foregoing, designation of i-wireless as an ETC in the State of South Dakota accords with the requirements of Section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, i-wireless respectfully requests that the Commission promptly designate i-wireless as an ETC in the State of South Dakota solely for purposes of participating in the Lifeline program, and grant the waivers requested herein.

Respectfully submitted,



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August 15, 2013

CERTIFICATE OF SERVICE

In accordance with to ARSD 20:10:32:46, I hereby certify that, on this day, a true and correct copy of the foregoing Application for Eligible Telecommunications Carrier Designation was sent to all other telecommunications companies serving as ETCs within the relevant service area:

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Knology of the Black Hills, LLC
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Mr. Steve Meyer
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Brookings, SD 57006-0588

Mr. W. Tom Simmons
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Ms. Jill Thornton
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Mr. Mark D. Benton
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Ms. Elizabeth Kohler
RCC Minnesota, Inc.
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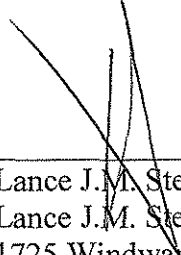
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Dated August 15, 2013



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