

Docket Number: TC16-001
Subject Matter: Fifth Data Request
Request to: IM Telecom, LLC d/b/a Infiniti Mobile
Request from: South Dakota Public Utilities Commission Staff
Date of Request: November 16, 2016
Responses Due: January 9, 2017

- 5.13 Pursuant to ARSD 20:10:32:43(4), provide a statement supporting the petition which specifies why the requested designation satisfies the requirements for eligible telecommunications designation and receiving federal universal support under 47 C.F.R. § 54.201.

Response to 5-13: Designation of Infiniti Mobile as an ETC in South Dakota satisfies the requirements for ETC designation and receiving federal support under 47 C.F.R. § 54.201. Section 54.201(d) provides 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. However, in the *Lifeline and Link Up Reform Order*, the FCC granted forbearance from the "own-facilities" requirement contained in Section 214(e)(1)(A) for carriers that are, or seek to become, Lifeline-only ETCs, subject to specific conditions.¹ Infiniti Mobile will avail itself of the FCC's grant of blanket forbearance. In accordance with the *Lifeline and Link Up Reform Order*, Infiniti Mobile filed its Compliance Plan with the FCC, which was approved on December 26, 2012. Applicants also must commit to advertise the availability and rates of such services.² CMRS resellers like Infiniti Mobile are treated as common carriers.³ Furthermore, through its wholesale arrangement with its underlying carrier(s), Infiniti 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 54.202(a)) including voice grade access to the Public Switched Telephone Network ("PTSN"), minutes of use for local service at no additional charge, and access to emergency services. Infiniti Mobile will also advertise the availability and rates for its Lifeline service offering using media of general distribution, as required by 47 C.F.R. § 54.201(d)(2). Infiniti Mobile's 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 20:10:32:55.⁴ Specifically, Infiniti Mobile will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline service, using mediums for outreach including, but not limited to, television marketing, direct mailings, face-to-face events, and advertising campaigns specifically targeted to reach those likely to qualify for Lifeline services. Infiniti Mobile may also promote the availability of its Lifeline offering by engaging in consumer outreach at various state and local social service agencies, and Infiniti Mobile may partner with nonprofit assistance organizations in order to inform customers of the availability of its Lifeline service.

¹ *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*") at ¶¶ 368, 373, and 379.

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

³ *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 at ¶ 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).

⁴ See *Lifeline and Link Up Reform Order* at Section VII.F.