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PUBLIC UTILITIES COMMISSION

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April 29, 2024

Patricia Van Gerpen
Executive Director
SD Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501

RE: TC24-002 Staff's Letter Regarding Joint Stipulation

Ms. Van Gerpen,

Commission staff (Staff) hereby submits this Letter along with a Joint Stipulation signed by Staff, Assurance Wireless USA, L.P. (Assurance), and the South Dakota Telecommunications Association (SDTA) (collectively, "the Parties"). This Letter is intended to provide context for the Joint Stipulation which the Parties have signed.

Assurance's Petition for Designation as an Eligible Telecommunications Carrier for the Purpose of Offering Lifeline Service to Qualifying Customers (Petition) is a contested case proceeding for which the South Dakota Codified Laws provide each party with the right to a hearing. SDCL 1-26-1(2); 1-26-16. Neither Staff, Assurance, nor SDTA desires an evidentiary hearing in this matter. By signing the document, the Parties have waived their right to an evidentiary hearing with the understanding that the Commission may require an evidentiary hearing if the Commission so desires.

The Commission's final decision on this Petition is one that the Parties may appeal to the circuit court. SDCL 1-26-30.2. For this reason, Staff believes it is necessary for the Parties to establish what will be considered "the record" upon which the Commission shall make its findings, and upon which the circuit court would base its review. According to the Joint Stipulation, the record shall consist of:

- (a) all documents filed by any party in Docket TC24-002, and (b) oral communication, including but not limited to all questions, answers, discussion, or arguments, that has occurred or will occur during any Commission meetings where the Commission has addressed, or will address, this Petition, as recorded on the Commission's audio recordings of its meetings.

Joint Stipulation, page 1, 2(c). With this language, the Commission may consider all documents filed in TC24-002 and all oral communications that have occurred or will occur regarding this Petition.

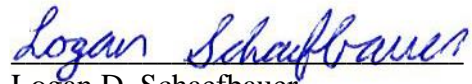
Finally, the Parties agree that the Commission may consider this Petition at a regularly scheduled Commission meeting where the Commissioners may ask questions of any party.

ARSD 20:10:01:19 states that a "stipulation shall be regarded and used as evidence at the hearing. However, the commission may refuse to be bound by such stipulation and make such investigation and require such additional

evidence as it may deem necessary.” Staff believes that if the Commission refused to be bound by this Joint Stipulation, an evidentiary hearing would be necessary in order to establish a record.

Therefore, Staff recommends the Commission accept the Joint Stipulation and render a decision on the merits of the Petition at a regularly scheduled Commission meeting. Staff plans to put this Petition on the Agenda for the May 8, 2024 Commission meeting.

Dated this 29th day of April, 2024



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