

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

IM TELECOM, LLC)	
D/B/A INFINITI MOBILE)	
Petition for Designation as an Eligible)	Docket No. TC23-_____
Telecommunications Carrier)	
_____)	

**PETITION OF IM TELECOM, LLC D/B/A INFINITI MOBILE
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
IN THE STATE OF SOUTH DAKOTA AND WAIVER OF CERTAIN RULES**

Lance J.M. Steinhart, Esq.
Managing Attorney
Lance J.M. Steinhart, P.C.
1725 Windward Concourse, Suite 150
Alpharetta, Georgia (GA) 30005
(770) 232-9200 (Phone)
(770) 232-9208 (Fax)
lsteinhart@telecomcounsel.com (E-mail)

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

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I. INTRODUCTION

IM Telecom, LLC d/b/a Infiniti Mobile (“INFINITI” 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 Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),² and the rules and regulations of the Public Utilities Commission of the State of South Dakota (the “Commission”), hereby submits this Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of South Dakota (this “Petition”).

INFINITI seeks ETC designation solely to provide Lifeline service to qualifying South Dakota consumers; it will not (and is not eligible to) seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of participating in the Link-Up program or high cost program.³

¹ 47 U.S.C. § 214(e)(2)

² 47 C.F.R. §§ 54.101-54.207.

³ 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.

As demonstrated herein, and as certified in Exhibit 1 attached hereto, INFINITI meets all the statutory and regulatory requirements for designation as an ETC in the State of South Dakota, including the requirements outlined in the FCC’s *Lifeline and Link Up Reform Order*,⁴ *Lifeline Modernization Order*,⁵ and *Fifth Report and Order*.⁶ Furthermore, INFINITI is positioned to reach unserved and underserved Lifeline-eligible consumers. Rapid grant of INFINITI’s request, therefore, would advance the public interest because it would enable the Company to commence much needed Lifeline services to a wide array of low-income South Dakota residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve this Petition.

Please note that under prior ownership and management, INFINITI filed a Petition for Designation as an Eligible Telecommunications Carrier in the State of South Dakota in Docket No. TC16-001, and such Petition was withdrawn by Order Granting Withdrawal Without Prejudice and Closing Docket issued on September 1, 2017.

⁴ *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*”).

⁵ *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (hereinafter, “*Third Report and Order*” or “*Lifeline Modernization Order*”).

⁶ *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) (hereinafter, “*Fifth Report and Order*”).

All correspondence, communications, pleadings, notices, orders and decisions relating to this Petition should be addressed to:

Lance J.M. Steinhart, Esq.
Managing Attorney
Lance J.M. Steinhart, P.C.
Attorneys for IM Telecom, LLC d/b/a Infiniti Mobile
1725 Windward Concourse, Suite 150
Alpharetta, Georgia 30005
(770) 232-9200 (Phone)
(770) 232-9208 (Fax)
E-Mail: lsteinhart@telecomcounsel.com

II. COMPANY OVERVIEW

INFINITI is an Oklahoma Limited Liability Company.⁷ Its principal office is located at 500 N. Central Expressway, Suite 202, Plano, Texas 75074. INFINITI is a wholly owned subsidiary of KonaTel, Inc., a Delaware corporation (“KonaTel”) which acquired INFINITI on January 31, 2019, and received all required approvals from the FCC and state commissions. INFINITI is a provider of commercial mobile radio service (“CMRS”) and provides prepaid wireless telecommunications services to consumers by using the underlying wireless networks of AT&T Mobility (“AT&T”), Verizon Wireless (“Verizon”) and T-Mobile USA, Inc. (“T-Mobile”) (collectively “Underlying Carriers”) on a wholesale basis. INFINITI has been designated as a Lifeline-only wireless ETC in California, Georgia, Kentucky, Maryland, Nevada, New York, Oklahoma, Pennsylvania, South Carolina, Vermont and Wisconsin. INFINITI is also authorized by the FCC and USAC to participate in the Affordable Connectivity Program (the “ACP”) throughout the United States, including South Dakota.

⁷ Infiniti was organized in the State of Oklahoma on February 9, 2012.

INFINITI will provide affordable prepaid mobile phone service, including calling, text messaging, and broadband access, along with user-friendly handsets, tablet or hotspot devices. The Company will not require service contracts from its customers and it will always ensure competitively low pricing for its services and products. INFINITI will manage all aspects of the customer experience, including setting service pricing, handset selection, marketing materials, and customer service. The Company's prepaid, budget-friendly pricing will give many low-income consumers the option of having mobile phone service and broadband access without the burden of hidden costs, varying monthly charges, or contractual commitments. Customers will be able to customize their INFINITI service to suit their needs with INFINITI's available bundles of minutes, broadband data, and text packages to supplement their monthly plan.

INFINITI's Lifeline customers will depend on, and benefit greatly from, INFINITI's inexpensive and flexible pricing plans. INFINITI will not impose credit checks nor will it require any deposits or contractual commitments. Many Lifeline customers turn to carriers like INFINITI because they cannot afford the postpaid services provided by traditional wireless carriers. INFINITI will affirmatively reach out to the low-income sector of the consumer base to offer attractive and affordable communications options. As such, INFINITI will contribute to the expansion of mobile wireless and broadband services for low-income consumers in South Dakota.

III. THE COMMISSION HAS JURISDICTION OVER DESIGNATION OF WIRELESS ETCs

Section 214(e)(2) of the Act provides state public utility commissions with the “primary responsibility” for the designation of ETCs.⁸ 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.⁹ 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).

INFINITI 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, the FCC has granted forbearance from enforcement of this facilities requirement to carriers seeking Lifeline-only ETC designation.¹⁰ 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 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 INFINITI. Therefore, the Commission has the authority under Section 214(e)(2) of the Act to grant INFINITI’s request for designation as an ETC throughout the State of South Dakota.

⁸ 47 U.S.C. § 214(e)(2).

⁹ *USF Order*, at 8858–59, ¶ 145.

¹⁰ *See Lifeline and Link Up Reform Order* at ¶ 368.

IV. INFINITI SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC UNDER 47 C.F.R. § 54.201

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.¹¹ 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 shall, throughout the designated service area, 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.¹² As detailed below, INFINITI satisfies each of the above-listed requirements.

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

Although Section 214 requires ETCs to provide services using their facilities, at least in part, the FCC has forbore from that requirement with respect to carriers such as INFINITI. 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 the following conditions:¹³

¹¹ See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) (“*USF Order*”).

¹² See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

¹³ See *Lifeline and Link Up Reform Order* at ¶¶ 368, 373, and 379.

(1) the carrier must comply with certain 911 requirements [(a) providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes; (b) providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services; and (c) complying with conditions (a) and (b) starting on the effective date of this Order]; and

(2) the carrier must file, and the Bureau must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary.

In accordance with the *Lifeline and Link Up Reform Order*, INFINITI filed its Compliance Plan with the FCC, which the FCC approved on August 8, 2012.¹⁴ The Company's Revised Compliance Plan, which updated terms and conditions and reflected the acquisition by KonaTel, was approved by the FCC on October 23, 2018 and is attached hereto as Exhibit 2.¹⁵ INFINITI commits to providing Lifeline service in South Dakota in accordance with its approved Compliance Plan, as revised, and in compliance with applicable state and federal regulations, to the extent amendments thereto may supersede commitments made in the Compliance Plan.

B. INFINITI Is a Common Carrier

CMRS providers like INFINITI are treated as common carriers.¹⁶

¹⁴ See FCC Public Notice DA 12-1286, <https://www.fcc.gov/document/wcb-approves-compliance-plans-birch-communications>.

¹⁵ See FCC Public Notice DA 18-1081, <https://www.fcc.gov/document/wcb-approves-wireless-compliance-plan-im-telecom>.

¹⁶ *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).

C. INFINITI Will Provide All Supported Services

Through its Underlying Carriers, INFINITI is able to provide all of the supported services required by Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)) as follows:

1. Voice Telephony Service

As set forth in 47 C.F.R. § 54.101(a)(1), eligible Voice Telephony Services must provide the following:

Voice Grade Access to the Public Switched Telephone Network. INFINITI provides voice grade access to the public switched telephone network ("PSTN") through the purchase of wholesale CMRS services from its facilities-based underlying carriers.

Local Usage At No Additional Charge. INFINITI offers rate plans that provide its customers with minutes of use for local service at no additional charge.

Access to Emergency Services. INFINITI 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. As noted, calls to 911 emergency services will always be free and will be available regardless of service activation status or availability of minutes. INFINITI also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets.

Toll Limitation. In its *Lifeline and Link Up Reform Order*, the FCC provided that toll limitation would no longer be deemed a supported service.¹⁷ "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."¹⁸ Nonetheless, INFINITI's offerings inherently allow Lifeline subscribers to control their usage, as its wireless service is

¹⁷ See *Lifeline and Link Up Reform Order* at ¶ 367.

¹⁸ See *id.* at ¶ 49.

offered on a prepaid, or pay-as-you-go, basis. INFINITI's service, moreover, is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same.

2. Broadband Internet Access Services

INFINITI provides Broadband Internet access service ("BIAS") in accordance with the FCC's minimum service standards to ensure Lifeline customers receive full Lifeline support. The FCC has stated that BIAS consists of the ability for a user to receive "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 Internet access service."¹⁹ INFINITI provides BIAS to low-income consumers via resale of Underlying Carriers' services.

D. INFINITI Requests Designation Throughout Its Service Area

INFINITI is not a rural telephone company as defined in Section 153(37) of the Act (47 U.S.C. § 153(37)). Accordingly, INFINITI is required to describe the geographic area(s) within which it requests designation as an ETC. INFINITI requests ETC designation throughout the non-rural (i.e. CenturyLink) service areas in South Dakota, including federally recognized tribal lands. Current coverage maps are attached hereto as Exhibit 3. The FCC has previously determined that designating a competitor as an ETC in areas served by non-rural ILECs is *per se* in the public interest.²⁰

¹⁹ See 47 C.F.R. § 8.2(a).

²⁰ Federal-State Joint Board on Universal Service; Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier, *Memorandum Opinion and Order*, CC Docket No. 96-45, 16 FCC Rcd 39, 45; -U 14 (Rel. Dec. 26, 2000) (hereinafter "*Cellco Partnership*") ("For those areas served by non-rural telephone companies, such as the state of Delaware, we believe that designation of an additional ETC based upon a demonstration that the requesting carrier complies with the statutory eligibility obligations of section 214(e)(1) is ***consistent per se with the public interest***. The carrier need make ***no further showing*** to satisfy this requirement.") (emphasis added).

In the event that the customer is not satisfied with INFINITI's coverage, the customer will not be charged for termination and will be able to keep any phone or SIM card provided by the Company without charge.

E. INFINITI Will Advertise the Availability of Supported Services

INFINITI 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). INFINITI will comply with the FCC's rules regarding information to be included in marketing materials, including FCC rule section 54.405(c). Specifically, INFINITI's marketing materials will state, in easily understood language, that: (i) the service is a Lifeline service; (ii) Lifeline is a government assistance program; (iii) the service may not be transferred to someone else; (iv) consumers must meet certain eligibility requirements before enrolling in the Lifeline program; (v) the Lifeline program permits only one Lifeline discount per household; (vi) documentation is necessary for enrollment; and (vii) INFINITI is the provider of the services. Moreover, the Lifeline application/certification form will state that Lifeline is a federal benefit and 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.

The Company will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline service, using mediums for outreach such as internet, radio, television, print advertising, and direct mailing.²¹ Moreover, INFINITI will expand its advertising efforts as necessary to ensure that Lifeline-eligible customers are aware of the Company's service offerings.

²¹ See attached Exhibit 4 for a sample advertisement. The advertisement will be updated if necessary to comply with any state specific requirements.

V. INFINITI SATISFIES THE ADDITIONAL REQUIREMENTS FOR ETC DESIGNATION UNDER 47 C.F.R. § 54.202(a)

INFINITI hereby provides the additional information and certifications required for carriers seeking ETC designation as set forth in 47 C.F.R. § 54.202(a).

A. Service Commitment Throughout the Proposed Designated Service Area

INFINITI will provide service in South Dakota by reselling service which it obtains from its Underlying Carriers whose networks are operational and largely built out. Thus, INFINITI will be able to commence offering its Lifeline service to all locations served by its Underlying Carriers very soon after receiving approval from the Commission.

In accordance with 47 C.F.R. § 54.202(a)(1)(i), and by the certification attached in Exhibit 1, INFINITI commits to comply with the service requirements applicable to the low-income support that it receives. Pursuant to 47 C.F.R. § 54.202(a)(1)(ii), a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC.

In accordance with ARSD 20:10:32:43.01(1), INFINITI commits to providing 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.

B. Ability to Remain Functional in Emergency Situations

In accordance with 47 C.F.R. § 54.202(a)(2), INFINITI has the ability to remain functional in emergency situations. As discussed, INFINITI will utilize the extensive and well-established network and facilities of Tier 1 carriers to provide its Lifeline services. The Company understands that its Underlying Carriers' networks have access to a reasonable amount of back-up power to ensure functionality without an external power source, are able to reroute traffic around damaged facilities, and are capable of managing traffic spikes resulting from emergency situations.

Through access to the Underlying Carriers' networks, INFINITI and its customers benefit from this same functionality.

C. Commitment to Consumer Protection and Service Quality

In accordance with 47 C.F.R. § 54.202(a)(3), an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards, and wireless applicants may satisfy this requirement with a commitment to comply with the Cellular Telecommunications and Internet Association's ("CTIA") Consumer Code for Wireless Service. INFINITI hereby commits to comply with the CTIA Consumer Code for Wireless Service.

INFINITI's customer service representatives are located in Atmore, Alabama and the toll-free telephone number is 888-801-0012. Customer service is available Monday through Friday from 8:00AM to 8:00PM CST and Saturday from 8:00AM to 5:00PM CST via phone or online chat. Subscribers can also initiate support tickets 24 hours a day 7 days a week via an online chat and customer service representatives respond during the above-mentioned support hours. INFINITI will cooperate fully with the Commission to resolve all consumer complaints. At this time, the company does not plan to have physical locations and employees in South Dakota.

D. INFINITI is Financially and Technically Capable

In accordance with 47 C.F.R. § 54.202(a)(4), INFINITI is financially and technically capable of providing Lifeline-supported services. INFINITI currently provides service to both Lifeline and non-Lifeline customers. INFINITI 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.²²

²² The Public Service Commission of Wisconsin (WI PSC) granted Infiniti designation as an ETC by Order effective May 25, 2016 in Docket No. 9694-TI-100. The WI PSC rescinded Infiniti'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. Infiniti 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, Infiniti has put measures in place to ensure consistent, timely compliance going forward by contracting with

INFINITI is financially able to provide Lifeline-supported services; the Company does not, and does not intend to, offer exclusively Lifeline-supported services—and the Company is therefore not exclusively dependent on USAC for its revenue. INFINITI also has access to managerial, technical and financial resources from its parent company, KonaTel.²³ INFINITI is fully capable of honoring all of its service obligations to customers and regulatory obligations to state and federal regulators. Furthermore, the senior management of INFINITI has great depth in the telecommunications industry and offers extensive telecommunications business, technical and managerial expertise to the Company.²⁴ INFINITI will be providing resold wireless service, and therefore INFINITI will also rely upon the managerial and technical expertise of its Underlying Carriers.

E. Terms and Conditions of Proposed Lifeline Offering

INFINITI has the ability to provide all services supported by the universal service program, as detailed in 47 C.F.R. § 54.101(a), throughout South Dakota. INFINITI commits that its Lifeline-supported voice services will meet or exceed the minimum service standards set forth in 47 C.F.R. § 54.408, including as such standards are updated going forward. INFINITI'S Lifeline-supported broadband services will also 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

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 Infiniti. These third-party vendors will provide industry expertise and add a layer of accountability and protection regardless of unforeseen internal personnel changes, although in 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.

²³ See Exhibit 5 for Financial Statements.

²⁴ See Exhibit 6 for key management bios.

allowance, as such standards are updated going forward. To the extent INFINITI 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 INFINITI will not impose an additional or separate tethering charge for mobile data usage below the minimum standard.

Attached hereto as Exhibit 7 is a summary table of the Company's proposed Lifeline service offerings. Customers will be able to purchase additional minutes or data as needed. In addition to wholly-supported or discounted wireless services, prepaid Lifeline customers will receive access to voicemail, caller ID and call waiting features at no additional charge. All plans will include nationwide domestic long-distance at no extra per-minute charge, and INFINITI will not assess any usage for access to its free customer services (611). Emergency (911) calls will be free, regardless of service activation or availability of minutes, and will not count against the customer's airtime. The Company's Lifeline offering will provide feature-rich mobile connectivity for qualifying subscribers without the burden of credit checks or service contracts. INFINITI's prepaid offering will be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

F. INFINITI Will Comply with the Lifeline Certification and Verification Requirements

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 plans, including a description of the Lifeline program and eligibility criteria. Customers must then apply through the National Lifeline Eligibility Verifier ("National Verifier"), which they may do online or by submitting all required documentation to the National Verifier by mail. Customers may download a copy of the

application form from the Internet (from the National Verifier’s website) or request that a copy be mailed to them. INFINITI utilizes the standard Lifeline application forms as required by FCC rules, and thus complies with the disclosure and information collection requirements in 47 C.F.R. § 54.410(d).²⁵ INFINITI will certify and verify initial and continued consumer eligibility in accordance with 47 C.F.R. § 54.410, and will notify the applicant that the prepaid service must be personally activated by the subscriber and the subscriber must use their service every thirty (30) days. INFINITI further confirms that it will not provide a consumer with an activated device and will not activate a Lifeline service unless or until it has confirmed that the consumer is a qualifying low-income household pursuant to 47 C.F.R. § 54.409, and completed the required eligibility determination and certification requirements of 47 C.F.R. §§ 54.410, 54.404-54.405. Processing of consumers’ applications and determination of eligibility will be performed by the National Verifier.

G. Prevention of Waste, Fraud and Abuse

The FCC has taken steps to further curb abuse in the Lifeline program by establishing the National Verifier, which transfers the responsibility of eligibility determination away from Lifeline providers. INFINITI will rely on the National Verifier to determine initial and ongoing eligibility of South Dakota Lifeline subscribers. The National Verifier queries the National Lifeline Accountability Database (“NLAD”) for every enrollment to determine whether a prospective subscriber is currently receiving a Lifeline service from INFINITI or any other ETC, and whether anyone else living at the prospective subscriber’s residential address is currently receiving Lifeline service. INFINITI thus complies with the requirements of section 54.404 of the FCC’s rules. In

²⁵ *FCC Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program*, WC Docket No. 11-42, Public Notice, “Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program,” DA 18-161 (rel. Feb. 20, 2018). The standard application/certification forms are available on USAC’s website (See USAC, Lifeline Forms, <http://www.usac.org/li/tools/forms/default.aspx>).

addition, Company personnel emphasize the “one Lifeline service per household” restriction in their direct sales contacts with potential customers.

Consistent with federal regulations, the Company will not seek USF reimbursement for new subscribers until they have personally activated the service, either by initiation and/or actual use of the service, and will de-enroll any subscriber that has not 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), INFINITI 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. Customers that have been deactivated may participate in the Company’s Lifeline service in the future by reapplying and re-establishing eligibility.

H. INFINITI Will Comply With Reporting Requirements

INFINITI will provide the Commission a copy of its annual certifications and Lifeline recertification results pursuant to 47 C.F.R. § 54.416 (i.e., FCC Form 555), as well as a copy of its annual report filed pursuant to 47 C.F.R. § 54.422 (i.e., FCC Form 481), and will comply with applicable Commission reporting requirements for Lifeline ETCs.

I. INFINITI Will Comply With Regulations Imposed By The Commission

By this Petition, INFINITI hereby asserts its willingness and ability to comply with the rules and regulations that the Commission may lawfully impose upon the Company’s provision of service contemplated by this Petition. Upon Commission request, INFINITI is prepared to answer

questions or present additional testimony or other evidence about its services within the state. INFINITI commits that 100% of federal universal service funds will flow through directly to Lifeline customers.

The Company will make every effort to resolve expeditiously complaints received by the Commission and will designate a specific contact person to work with Commission staff to resolve any complaints or other compliance issues.

The designated representative with authority to resolve customer service, quality of service, and/or Lifeline inquiries is:

Stacey Carmel, Vice President of Operations
IM Telecom, LLC d/b/a Infiniti Mobile
500 N. Central Expressway, Suite 202
Plano, Texas 75074
(214) 323-8003 (Phone)
E-Mail: scarmel@infinitimobile.com

J. Waiver Requests

ARSD 20:10:32:43.01(2) requires ETCs to make modifications to network facilities 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 and service can be provided at reasonable cost. INFINITI is a wireless reseller that relies upon the networks of other service providers, and thus INFINITI requests a waiver of ARSD 20:10:32:43.01(2) to the extent it would require the Company to engage in activities that are not feasible for a reseller, such as modifications or extension of networks or facilities.

INFINITI further 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 *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.²⁶ 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 INFINITI 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.

VI. DESIGNATION OF INFINITI 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.²⁷ Designation of INFINITI as an ETC in South Dakota will further that public interest. Whether because of financial constraints, poor credit history, or intermittent employment, many low-income consumers often lack the countless choices available to most consumers and thus have yet to reap the full benefits of the intensely competitive wireless market.

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. The FCC has in recent years expanded the Lifeline program to cover broadband services, noting that "Only half of all

²⁶ See *Lifeline and Link Up Reform Order* at ¶ 386.

²⁷ *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

households in the lowest income tier subscribe to a broadband service and 43 percent say the biggest reason for not subscribing is the cost of the service,” and “Of the low income consumers who have subscribed to mobile broadband, over 40 percent have to cancel or suspend their service due to financial constraints.”²⁸ Given this context, designating INFINITI as an ETC would significantly benefit low-income consumers eligible for Lifeline services in South Dakota—the intended beneficiaries of universal service.

A. Advantages of INFINITI’s Service Offering

INFINITI offers an easy to use, competitive, and highly affordable wireless telecommunications service, which benefits qualified consumers who either have no other service alternatives or who choose a wireless prepaid solution in lieu of more traditional service. The public interest benefits of INFINITI’s wireless service include larger calling areas (as compared to traditional wireline carriers), the convenience and security afforded by mobile service, and a generous amount of voice and broadband access included at limited cost (after application of the Lifeline support), as well as free access to caller ID, call waiting, and Voicemail features, and access to 911 services regardless of the number of voice minutes remaining on the Lifeline consumer’s plan. These low cost to consumer services are an invaluable resource for cash-strapped consumers, and the prepaid nature of the service also provides an alternative for “unbanked” consumers. INFINITI’s prepaid wireless service is likely to be an especially attractive option for low-income consumers because it alleviates customer concerns regarding hidden costs, varying monthly charges and long-term contract issues.

In today’s market, consumers, including qualified Lifeline customers, view the portability and convenience of wireless service not as a luxury, but as a necessity. Mobile service allows

²⁸ See *Lifeline Modernization Order* ¶ 2.

children to reach their parents wherever they may be, allows a person seeking employment greater ability to be contacted by potential employers, and provides end users with the ability to contact emergency service providers regardless of location. Mobile service often also serves as a key bridge in closing the homework gap for students who live in rural areas with limited access to broadband.

With the comprehensive strength and experience of INFINITI's management team, and its solid history as a Lifeline provider, INFINITI is positioned to meet the needs of Lifeline customers and remains committed to careful stewardship of the Lifeline program. Without question, prepaid wireless services have become essential for low-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents. Providing INFINITI with the authority necessary to offer discounted Lifeline service to those without wireless service—or most in danger of losing service altogether—undoubtedly promotes the public interest.

B. The Benefits of Competitive Choice

The FCC has acknowledged the benefits to consumers of being able to choose from among a variety of telecommunications service providers for more than three decades.²⁹ Increasing customer choice promotes competition and innovation, thus spurring other carriers to target low-income consumers with service offerings tailored to their needs, ultimately resulting in improved services to consumers. Designation of INFINITI as an ETC will help ensure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.³⁰ Introducing INFINITI into the market as an additional wireless ETC provider will afford low-income South

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

³⁰ See 47 U.S.C. § 254(b)(1).

Dakota residents a wider choice of providers and available services while creating a 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.

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 INFINITI or the Incumbent LEC operating in the same service area. The number of persons eligible for Lifeline support is the same regardless of the number of ETCs; thus, INFINITI will only increase the amount of USF Lifeline funding in situations where it obtains Lifeline customers not already enrolled in another ETC's Lifeline program. By implementing the safeguards set forth in the *Lifeline and Link Up Reform Order* and utilizing the NLAD and National Verifier, the likelihood that INFINITI's customers are not eligible or are receiving duplicative support either individually or within their household is greatly minimized. INFINITI's 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.

VII. CONCLUSION

Based on the foregoing, designation of INFINITI 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, INFINITI respectfully requests that the Commission promptly designate INFINITI as an ETC in the State of South Dakota for the purpose of participating in the Lifeline program.

Respectfully submitted,



Lance J.M. Steinhart, Esq.
Managing Attorney
Lance J.M. Steinhart, P.C.
1725 Windward Concourse, Suite 150
Alpharetta, Georgia (GA) 30005
(770) 232-9200 (Phone)
(770) 232-9208 (Fax)
lsteinhart@telecomcounsel.com (E-mail)

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

January 17, 2024

CERTIFICATE OF SERVICE

In accordance with to ARSD 20:10:32:46, I hereby certify that, on January 17, 2024, a true and correct copy of the foregoing Petition for Eligible Telecommunications Carrier Designation was sent to the following telecommunications company serving as ETCs:

Qwest Corp. dba CenturyLink QC
100 CenturyLink Drive
Monroe, LA 71203

I further hereby certify that, on January 17, 2024, a true and correct copy of the foregoing Petition for Eligible Telecommunications Carrier Designation was sent to all Affected Tribal Governments and Tribal Regulatory Authorities:

Kevin Keckler, Chairman
Cheyenne River Sioux Tribe
PO Box 590
Eagle Butte, SD 57625-0590

Anthony Reider, President
Flandreau Santee Sioux Tribe
PO Box 283
Flandreau, SD 57028-0283

Michael Jandreau, Chairman
Lower Brule Sioux Tribe
PO Box 187
Lower Brule, SD 57548-0187

Cyril Scott, President
Rosebud Sioux Tribe
PO Box 430
Rosebud, SD 57570-0430

Robert Shepherd, Chairman
Sisseton-Wahpeton Oyate
PO Box 509
Agency Village, SD 57262-0509

Charles Murphy, Chairman
Standing Rock Sioux Tribe
PO Box D
Ft. Yates, ND 58538-0522

Bryan Brewer, President
Ogalala Sioux Tribe
PO Box 20720
Pine Ridge, SD 57770-2070

Dated January 17, 2024

/s/ Lance J.M. Steinhart

Lance J.M. Steinhart, Esq.
Lance J.M. Steinhart, P.C.
1725 Windward Concourse, Suite 150
Alpharetta, Georgia 30005
Telephone: (770) 232-9200
Facsimile: (770) 232-9208
Email: lsteinhart@telecomcounsel.com

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