

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IM Telecom, LLC
Designated Eligible Carrier
Application

Case No. PU-23-365

ORDER ON ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

May 23, 2024

Preliminary Statement

On December 21, 2023, IM Telecom, LLC (IM), an Oklahoma corporation with its principal offices located at 500 North Central Expressway, Suite 202, Plano, TX 75074, filed an application for designation as an eligible telecommunications carrier (ETC) for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. This designation is also known as Lifeline-only ETC designation. IM proposes to provide Lifeline universal services to eligible low-income customers as a commercial mobile radio service (CMRS) carrier throughout every telephone exchange in North Dakota.

On January 4, 2024, the Commission issued a Notice of Opportunity for Hearing (Notice) providing until February 19, 2024, for comments and requests for hearing. No comments or requests for hearing were received. The Notice identified the issues to be considered in this matter are:

1. Is the applicant qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding?
2. What ETC universal service support area should be designated?
3. Is designation of the applicant as an ETC in the public interest?

The Notice stated that the Commission can determine the matter without a formal hearing.

On December 21, 2023, IM filed a signed Certification Relating to Order Provisions with its application.

On March 27, 2024, the Commission held an Informal Hearing to discuss the issues with IM.

ETC Designation

The Telecommunications Act of 1996 provides financial support for universal services to common carriers that have been designated as ETCs and that (1) offer the universal services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services and (2) advertise the universal services, advertise the availability of such services, and advertise the charges for such services, using media of general distribution.

In its *Report and Order and Further Notice of Proposed Rulemaking* released February 6, 2012, in Docket No. FCC 12-11 at paragraph 368, the Federal Communications Commission found that it would forbear from the "own-facilities" requirement contained in section 214(e)(1)(A) for carriers that seek to become, Lifeline-only ETCs, subject to the following conditions: (1) the carrier must comply with certain 911 requirements and (2) the carrier must file, and the FCC must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement Lifeline service obligations as well as further safeguards against waste, fraud and abuse the FCC may deem necessary.

Under 47 CFR 54.201, a carrier seeking Lifeline-only ETC designation must demonstrate that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Subpart E. IM is seeking Lifeline-only ETC designation.

Both federal law and state law give the Commission the authority to designate a common carrier as an ETC. In areas served by a rural telephone company, the Commission must find that ETC designation is in the public interest.

IM, was organized and incorporated in the state of Oklahoma on February 9, 2012. IM is a common carrier and reseller of commercial mobile radio service, and will offer all of the services and functionalities detailed in Section 54.101(a) of the FCC Rules. IM generates revenues from non-Lifeline services and has access to capital from its investors; and currently provides services to approximately 60,000 customers. Therefore, IM is not solely dependent on reimbursements from the Universal Service Fund. IM proposes to provide services to customers by using the underlying networks of AT&T Mobility, Verizon Wireless, and/or T-Mobile USA, Inc. on a wholesale basis in order to provide the best coverage and service available for subscribers. IM is currently authorized as a wireless ETC in the states of California, Georgia, Kentucky, Maryland, Nevada, New York, Oklahoma, Pennsylvania, South Carolina, Vermont and Wisconsin.

IM will offer telecommunications services primarily to eligible low-income subscribers.

IM will offer plan options including 1000 anytime prepaid minutes, 1000 text messages and 4.5GB data at a net cost to an eligible non-tribal Lifeline customer of \$20

per month. IM will also offer a tribal option with 3000 anytime minutes, unlimited text messages and 6GB data at a net cost to an eligible tribal Lifeline customer of \$0 per month. IM will offer to all customers a free or discounted handset or SIM card, custom calling features at no charge including 911, Caller ID, Call Waiting, Voicemail and the ability to use voice minutes for domestic long distance.

IM seeks only Lifeline support from the low-income mechanism of the federal Universal Service Fund and does not seek support from the high-cost support mechanism. This program is designed to reduce the monthly cost of telecommunication services for eligible consumers, is distributed on a per-customer basis, and is directly reflected in the price that the eligible customer pays. Because IM does not seek support from the high-cost support mechanism, designation of IM as a Lifeline-only ETC will not pose any adverse effect on the growth in the high-cost portions of the Universal Service Fund (USF), nor will it create or contribute to an erosion of high-cost funding from any rural or nonrural telephone company. Increasing the number of designated Lifeline-only ETCs in North Dakota will provide the opportunity for increased participation by eligible consumers in the Lifeline program.

NDAC § 69-09-05-12(6)(a) requires a full description of available services in the ETC's official telephone directory. Since IM is a CMRS provider, it does not have an official telephone directory in North Dakota and requests a waiver from this requirement pursuant to NDAC §§ 69-09-05-12(2)(c) and (d).

The FCC approved IM's Compliance Plan on August 8, 2012, and thereby granted IM forbearance from the statutory requirement that IM provide service using its own facilities in order to be designated as a Lifeline-only ETC.

The Certification Relating to Order Provisions as signed by Jason Welch, President of IM and filed on December 21, 2023, is incorporated by reference and attached to this order.

Consumers eligible for the Lifeline discounts offered by IM will receive the benefits of nationwide calling areas and the convenience and security of mobile telephone service. IM will bring increased customer choice and the benefits of competition.

Universal Service Support Area

The Commission must establish a geographic area (service area) for the purpose of determining universal service obligations and support mechanisms for the designated ETC. 47 U.S.C. § 214(e)(5).

The Act defines service area:

SERVICE AREA DEFINED-- The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

In its *Memorandum Opinion and Order*, FCC 13-44, released April 15, 2013, the Federal Communications Commission determined that carriers may be designated as a Lifeline-only ETC in partial rural service areas.

In this proceeding, IM is requesting ETC designation in all North Dakota telephone exchanges.

IM has demonstrated that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Subpart E.

Based on the evidence in this proceeding, IM is qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E.

It is in the public interest that IM be designated as a Lifeline-only ETC in all North Dakota telephone exchanges.

IM is registered with the Commission to provide commercial mobile radio and long-distance services.

IM is registered with the Secretary of State of North Dakota and IM is in good standing.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

Order

The Commission orders:

1. IM Telecom, LLC is designated as an eligible telecommunications carrier for the purpose of receiving federal universal service support for low-income consumers under

47 CFR Part 54 Subpart E. The designated service area in this proceeding consists of all study areas in North Dakota.

2. IM Telecom, LLC shall comply with the applicable annual reporting requirements set forth in North Dakota Administrative Code §69-09-05-12.1.

3. Under North Dakota Administrative Code §69-09-05-12(2)(c) and (d), IM Telecom, LLC is granted a waiver of the requirements of North Dakota Administrative Code § 69-09-05-12(6)(a) regarding the publication of a full description of its services in an official telephone directory.

4. The December 21, 2023, Certification Relating to Order Provisions is incorporated by reference and attached to this Order.

PUBLIC SERVICE COMMISSION


Sheri Haugen-Hoffart
Commissioner


Randy Christmann
Chair


Julie Fedorchak
Commissioner

**BEFORE THE
STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

IM Telecom, LLC d/b/a Infiniti Mobile)
Application for Designation as an Eligible) Case No. PU-23 ____
Telecommunications Carrier)

Certification Relating to Order Provisions

I, Jason Welch, President of IM Telecom, LLC d/b/a Infiniti Mobile (“INFINITI”), have the authority to bind INFINITI and hereby certify that INFINITI will comply with the service requirements applicable to the low-income support it receives, and further certify as follows:

1. INFINITI is seeking designation as a Lifeline-Only Eligible Telecommunications Carrier (Lifeline-Only ETC) for all non-rural telephone company wire centers within the state of North Dakota, all rural telephone company study areas within the state of North Dakota, and all Tribal areas within the non-rural and rural telephone company areas within the state of North Dakota, which is the entire state of North Dakota.
2. For the telephone exchanges enumerated, INFINITI understands and agrees to the conditions and criteria set forth in Chapter 49-21 of the North Dakota Century Code and Chapter 69-09-05 of the North Dakota Administrative Code that pertain to Wireless Lifeline Only Eligible Telecommunications Carriers (Lifeline-Only ETC), and INFINITI will be responsible for compliance with this Certification, the Public Service Commission's order in this proceeding, and conditions and criteria set forth in the applicable federal and state laws and rules pertaining to Lifeline-Only ETCs.

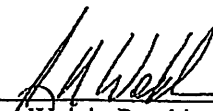
The provision in Chapter 69-09-05 of the North Dakota Administrative Code requiring the ETC to describe services in the “carrier’s official telephone directory” is not applicable because INFINITI has no such directory.

3. INFINITI agrees to comply with all statements, processes and procedures set forth in its Application for designation as a Lifeline-Only ETC in the enumerated telephone exchanges. INFINITI agrees that all statements made and matters set forth in its Application are true and correct to the best of INFINITI’s knowledge, information, and belief.
4. INFINITI will use the federal low-income universal service support it receives only for the provision of services for which the support is intended.

5. INFINITI meets all of the prerequisites to be designated as a Lifeline-Only ETC throughout the proposed ETC Designated Area in this proceeding.
6. INFINITI provides each of the services supported by federal universal service support mechanisms, specified in Federal Communications Commission's (FCC's) rules, 47 C.F.R. 54.101, and will offer these supported services in North Dakota upon designation as a Lifeline-Only ETC, including voice grade access, minutes of use for local service at no additional charge, access to emergency services and toll limitation services.
7. INFINITI will provide service on a timely basis to requesting customers within INFINITI's proposed designated service area where INFINITI's network already passes the customer's premises.
8. INFINITI will provide service within a reasonable period of time, if the potential customer is within INFINITI's proposed designated service area but outside its existing network coverage, if service can be provided at reasonable cost by:
 - (a) Modifying or replacing the requesting customer's equipment;
 - (d) Adjusting network or customer facilities; or
 - (e) Reselling services from another carrier's facilities to provide service.
9. INFINITI will not seek Universal Service Fund high-cost support for any telephone exchanges in its designated service area in North Dakota.
10. INFINITI will use all available means to ensure customers are eligible for the Lifeline program at the time of sign-up and recertification in accordance with the federal eligibility criteria in 47 C.F.R. § 54.409 and the relevant proof documentation specified in 47 C.F.R. § 54.410. INFINITI will rely upon the FCC's National Lifeline Eligibility Verifier and National Lifeline Accountability Database to prevent duplication and determine eligibility.
11. INFINITI has taken, and will continue to take, steps to work with its underlying carriers to remain functional in emergency situations by: (1) maintaining a reasonable amount of backup power to ensure functionality without an external power source; (2) maintaining the ability to re-route traffic around damaged facilities and to manage traffic spikes resulting from emergency situations; and (3) establishing procedures for employees to follow in an emergency to prevent or minimize interruption or impairment of telecommunications services.
12. INFINITI will meet or exceed applicable consumer protection and quality standards and will comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.
13. INFINITI will advertise the availability of the supported services detailed in its Application, and the corresponding rates and charges, in a manner designed to inform the general public within North Dakota. This advertising will occur through a combination of media channels.

14. INFINITI will offer the services described in its Application.
15. INFINITI understands and agrees that if INFINITI has not advertised its Lifeline services or signed up any North Dakota customers within 12 months of the effective date of INFINITI's designation as a Lifeline-only ETC, the Public Service Commission may revoke INFINITI's Lifeline-only ETC designation and INFINITI may reapply to be designated as a Lifeline-only ETC in North Dakota.
16. INFINITI will comply with all applicable annual reporting requirements associated with being an ETC in North Dakota including filing with the Public Service Commission a copy of each annual ETC report filed with the FCC, within 30 days of filing with the FCC.
17. INFINITI understands and agrees that its ability to offer service is subject to suspension or revocation for failure to comply with the Public Service Commission's orders, or applicable statutes, rules, regulations, standards, and other authorizations.
18. INFINITI agrees to maintain the records to demonstrate that INFINITI has complied with the requirements of the Public Service Commission's order(s) and that INFINITI will preserve records demonstrating compliance for Public Service Commission inspection at any reasonable time upon reasonable notice.
19. INFINITI understands and agrees that, to the extent there are any conflicts or inconsistencies between INFINITI's Application and the provisions in this Certification, the Certification provisions control.

Dated: December 18, 2023



Jason Welch, President
IMTelecom, LLC d/b/a Infiniti Mobile