

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2016-279-C - ORDER NO. 2016-795

NOVEMBER 30, 2016

IN RE: Application of IM Telecom, LLC d/b/a) ORDER APPROVING ETC
 Infiniti Mobile for Designation as an Eligible) STATUS
 Telecommunications Carrier in the State of)
 South Carolina)

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Application of IM Telecom, LLC d/b/a Infiniti Mobile (“Infiniti Mobile,” “Company” or “Applicant”) for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of South Carolina (“Application”) solely to provide Lifeline service to qualifying customers. Infiniti Mobile has requested ETC designation using the networks of Sprint Spectrum L.P. (“Sprint”), Verizon Wireless (“Verizon”), and T-Mobile USA, Inc. (“T-Mobile”) on a wholesale basis to offer nationwide prepaid service. According to the Company, it will not seek funds from the federal Universal Service Fund (“USF”) to provide service in high cost areas and only seeks funds from the federal USF low income support program.

For the reasons explained herein, the Commission grants the Application and concludes that designation of Infiniti Mobile as an ETC on the terms provided in this Order would serve the public interest.

BACKGROUND

Infiniti Mobile filed its Application on July 21, 2016. The Application is supported by the Company's Compliance Plan that has been approved by the Federal Communications Commission ("FCC"), the Verified Direct Testimony of Trevan Morrow filed on September 28, 2016 ("Verified Testimony"), and a Stipulation entered into between Infiniti Mobile and the South Carolina Office of Regulatory Staff ("ORS") filed with the Commission on October 25, 2016 ("Stipulation").

As directed by the Commission, notice of the filing of the Application was published in *The State* newspaper, *The Post and Courier*, and *The Florence Morning News* with proofs of publication being filed with the Commission on August 23, 2016. No petitions to intervene were filed in this matter. ORS is a party pursuant to statute.

The Stipulation recommends that the Commission designate Infiniti Mobile as an ETC for the limited purpose of providing Lifeline service to qualified households in accordance with the terms contained therein. The terms of the Stipulation include, but are not limited to, Infiniti Mobile's agreement to comply with all terms and conditions of its FCC approved Compliance Plan, and its agreement to submit any changes or modifications to the Compliance Plan to the Commission and the ORS within five (5) days of filing same at the FCC. A copy of the Stipulation is attached hereto as "Exhibit A", and its terms are incorporated herein by reference.

On October 25, 2016, Infiniti Mobile filed a motion requesting that the Commission admit the Verified Testimony into the record and grant expedited consideration and approval of the Application. ORS did not object to this motion.

Having considered the record before it, the Commission finds that the record is sufficient to make a final determination in this matter, and further finds that the interests of judicial economy are served by waiving the need for a hearing and granting expedited consideration and approval of the Application.

ANALYSIS

Section 214(e)(2)(e) of the Telecommunications Act of 1996 (the “Act”) authorizes state commissions to designate common carriers that meet the requirements as ETCs. 10 S.C. Code Ann. Regs. 103-690 provides that the Commission will fulfill its responsibility to designate common carriers as ETCs, and establishes the requirements that an applicant must meet in order to be designated an ETC.

As demonstrated in the Application, the Verified Testimony, the Stipulation, and the Company’s Compliance Plan, Infiniti Mobile satisfies all the relevant requirements for designation as an ETC specified in Sections 254 and 214 of the Act and 10 S.C. Code Ann. Regs. 103-690. Infiniti Mobile is (i) a common carrier as defined by 47 U.S.C. Section 153(10), and will (ii) offer all the supported services, and (iii) advertise the availability of its offerings and charges through media of general distribution.

Furthermore, Infiniti Mobile has (iv) certified that it will comply with the service requirements applicable to the support it receives; (v) demonstrated its ability and commitment to remain functional in emergency situations; (vi) demonstrated its commitment to satisfy applicable consumer protection and service quality standards, including annual certification of its compliance and reporting of consumer complaints in accordance with 10 S.C. Code Ann. Regs. 103-690C(a)(3) and 103-690.1B(b)(4); (vii)

demonstrated that the Company is financially and technically capable of providing the Lifeline service;(viii) provided information describing its Lifeline service plans, including a demonstration that it will provide Lifeline local usage plans comparable to the incumbent local exchange carriers already operating in the area; and (ix) committed to comply with applicable federal and state reporting requirements including, but not limited to, annual reports required by 10 S.C. Code Ann. Regs. 103-690.1.

Additionally, in accordance with 10 S.C. Code Ann. Regs. 103-690.1E, Infiniti Mobile will (x) offer Lifeline service in the designated service area to all qualifying low-income consumers; (xi) publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service in satisfaction of 10 S.C. Code Ann. Regs. 103-690.1E(a)(1); (xii) offer a toll blocking and/or limitation option at no charge for any Infiniti Mobile Lifeline service that a) is not prepaid and b) could potentially result in additional charges for toll service usage; (xiii) make Lifeline service available to qualifying low-income customers without requiring a service deposit in order to initiate Lifeline service that could result in post-paid charges for toll service usage if the customer elects toll limitation services; (xiv) verify annually that its Lifeline customers meet the qualifications and provide sixty days' notice to customers which it believes no longer qualify for Lifeline service; and (xv) forbear from charging Lifeline customers a monthly number portability charge.

Finally, Infiniti Mobile will take steps to limit fraud, waste and abuse in the federal universal service programs. On February 6, 2012, the FCC adopted comprehensive reforms to the low-income program to revise the Lifeline service requirements. In the

Lifeline Reform Order, the FCC adopted specific reforms attempting to limit fraud, waste and abuse in the low-income program. Infiniti Mobile commits to compliance with the rules set out in the Lifeline Reform Order and subsequent FCC Lifeline decisions as applicable.

Section 103-690(C)(b) of the S.C. Code of Regulations provides that, in determining whether an ETC designation is in the public interest, the Commission must consider, *inter alia*, the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering. Considering these factors and others, the Commission determines that it is in the public interest that the Commission grant Infiniti Mobile ETC designation for the limited purpose of providing Lifeline service. In addition, and consistent with federal findings, the Commission agrees that a "cream skimming" analysis is not required as a public interest test in the case of carriers seeking ETC designation for the limited purpose of offering Lifeline services.

IT IS THEREFORE ORDERED THAT:

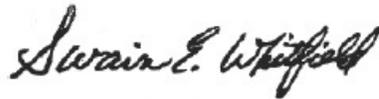
1. The Verified Testimony and the Stipulation are accepted into the record without objection.
2. The Applicant's Motion to Waive the Hearing and Seeking Expedited Consideration is granted.
3. Any changes or modifications to the Company's FCC approved Compliance Plan will be filed with the Commission, with a copy to ORS, within five (5) days of filing at the FCC.

4. Subject to the terms and conditions herein, IM Telecom, LLC d/b/a Infiniti Mobile is hereby designated as a ETC for the limited purpose of providing Lifeline service as requested in the Application and on the terms provided in the Stipulation. A copy of this Order shall be promptly provided by the Commission to the FCC and the Universal Service Administrative Company (“USAC”).

5. As described in Commission Order 2016-793, certain upcoming changes to the federal Lifeline program have been adopted by this Commission for the state Lifeline program, said changes to become effective on or after December 2, 2016. The changes involve streamlined eligibility requirements, a rolling re-certification process, and new de-enrollment time frames. Even though certain changes may be different from the requirements listed above, the Company shall adopt said changes at such time as they may become effective for the federal Lifeline program.

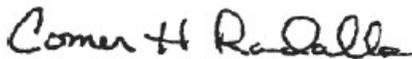
6. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



Swain E. Whitfield, Chairman

ATTEST:



Comer H. Randall, Vice Chairman

WHEREAS, the Company filed a compliance plan with the Federal Communications Commission (“FCC”), and agrees to comply with the requirements and conditions set out in the approved FCC compliance plan (“Compliance Plan”); and

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1. The Company is a commercial mobile radio service (“CMRS”) provider, proposing to offer prepaid wireless Lifeline service as an ETC and other prepaid wireless voice and data services in South Carolina.

2. The Company has requested wireless, Lifeline-only ETC designation in South Carolina.

3. The Company provides its prepaid wireless Lifeline and non-Lifeline services by reselling the wireless services of Verizon, T-Mobile, and Sprint, which provides wholesale capacity to wireless resellers. T-Mobile, Verizon, and Sprint will provide the Company with the wireless infrastructure and wireless transmission facilities needed for the Company to offer services as a Mobile Virtual Network Operator (“MVNO”). The Company will offer Lifeline service plans under the “Infiniti Mobile” brand name. The Company’s Lifeline subscribers will be eligible to receive the same service plans that the Company generally will make available to the public.

4. The Company has limited its requested Universal Service Fund (“USF”) support to the Federal USF low-income support program. The Company certifies that all low-income USF funding it receives will be used to provide a credit to its Lifeline eligible customers, consistent with 47 C.F.R. 54.403.

5. The Company's Compliance Plan, as approved by the FCC, is incorporated in this Stipulation. The Company agrees to comply with all terms and conditions of the FCC approved Compliance Plan. Any changes or modifications to the Company's FCC approved Compliance Plan must be filed with the Public Service Commission of South Carolina ("Commission"), with a copy to ORS, within five (5) days of filing at the FCC.

6. The Company agrees to advertise the availability of Lifeline using media of general distribution.

7. The Company is to offer Lifeline credits consistent with the rates, terms, and conditions contained in its rate schedules and website and will publish the availability and the pricing of these same offerings on its website or public forum accessible by Lifeline eligible low-income consumers.

8. Until modified by the Commission, the Company agrees to utilize the means test established by the FCC and set forth in 47 C.F.R. 54.409.

9. The Company agrees to notify the Commission and the Office of Regulatory Staff ten (10) days in advance of any changes to its Lifeline rates in South Carolina, or the pricing, or changes in pricing of any additional minute plans offered to South Carolina Lifeline customers.

10. The Company agrees to advertise its rate plans on its website and the price for additional minutes of use consistent with schedules set forth in the Application.

11. The Company agrees to provide Lifeline customers the federal lifeline credit of \$9.25 per month, consistent with 47 C.F.R. 54.403. In addition, The Company agrees to provide all South Carolina Lifeline customers with a company funded \$3.50 credit. The Company may fulfill this commitment by offering a South Carolina Lifeline plan that provides the customer's choice of either 500 minutes of "voice only" or 500 minutes of "voice or text" service per month

and a phone at a monthly cost of \$0.00, as required by the FCC in Order FCC 16-38 (Rel. April 27, 2016). In the event the Commission, the FCC, or a court of competent jurisdiction issues a decision that a credit of \$3.50 is not required to be provided by ETCs to South Carolina Lifeline customers, the Parties agree that this Agreement will be modified to reflect that ruling.

12. The Company agrees to allow qualifying low-income consumers to apply all applicable Lifeline discounts to any wireless or residential service plan that includes voice telephony service, including bundled packages of voice and data services; and plans that include optional calling features such as, but not limited to, caller identification, call waiting, voicemail, and three-way calling. ETCs may also permit qualifying low-income consumers to apply their Lifeline discount to family shared calling plans.

13. The Company agrees that it will abide by all advertising, reporting, and verification requirements established by the FCC and the Commission.

14. The Company agrees to provide ORS any FCC Citations issued against the Company's Lifeline South Carolina customers, within five (5) days of notice to the Company by the FCC of the customer citation.

15. The Company agrees to file all reports requested by ORS or the Commission, including but not limited to: the "Telecommunications Company Annual Report," the "Authorized Utility Representative Form," the "Gross Receipts Form," and the "USF Worksheet." All of which may be found on the ORS website at www.regulatorystaff.sc.gov in the telecommunications forms and resources section.

16. The Company agrees to file with the ORS a certified true copy of its Form 481, Form 497, and Form 555 filed with the Universal Service Administrative Company ("USAC"), and all other reports required to be filed with the States by federal requirements including

revisions thereto, no later than five (5) calendar days after the Form or revision is filed with USAC.

17. If the designations sought herein are granted, The Company agrees to pay the annual gross receipts assessment in accordance with S.C. Code § 58-3-100 and S.C. Code § 58-4-60.

18. The Company does not distinguish in the pricing of toll and non-toll calls. Should the Company change its business model to include toll a service, the Company agrees to offer a toll blocking and/or limitation option for the Company Lifeline service at that time.

19. The Company agrees to waive any and all activation fees for Lifeline customers.

20. The Company agrees to implement or to participate in a program for initial certification and annual verification that ensures that an eligible Lifeline customer only receives one Lifeline credit per residential address and must conform with its Compliance Plan on file with the FCC and 47 C.F.R. 54.410.

21. The Company agrees to provide E911 compliant handsets to new Lifeline customers and replace any non-compliant handsets for its existing customers who are approved as Lifeline customers as part of its Basic Lifeline Service Plans at no charge.

22. The Company agrees to distribute an informational card with the handset that provides the Lifeline customer the name and contact information for company. The card will include the company's toll free customer service number and web address.

23. If the designations sought herein are granted, the Company will be supporting Universal Service in South Carolina based on its total South Carolina retail end user revenues, and must submit all documentation and Universal Service fees required by South Carolina.

24. The Company agrees to submit a quarterly report to ORS demonstrating the number of Lifeline customers who have been deactivated by the Company during the quarter due to: (1) non-usage on their customer account during two consecutive 30-day periods; (2) customer failure to comply with or pass the annual verification requirement; or (3) voluntary customer-requested deactivation. In addition, consistent with the annual reporting commitments contained in its approved Compliance Plan, the Company agrees to file state specific reports with ORS.

25. The Company agrees that ORS may examine the Company's records and documentation to ensure that the universal service support the Company receives is being used for the purpose for which it was intended. The Company is required to provide such records and documentation to ORS upon request. The Company agrees that if it fails to fulfill the requirements of the Act, the Commission's rules, or the terms of this agreement after it begins receiving universal service support, the Commission or ORS may exercise its authority to seek to revoke the Company's ETC designation.

26. The Company agrees that its ETC designation is non-transferable to new owners and is cancelled upon discontinuance of service.

27. The Company shall comply with all applicable state and federal laws, rules, and regulations regarding ETC designation and reporting requirements. More specifically, the Company agrees to abide by the Commission regulations regarding designation of an ETC found in 10 S.C. Code Ann. Regs. 103-690 (2012) as well as requirements set out by the FCC for ETC designation and for participation in the Lifeline program (e.g. FCC Regulation Subpart E -- Universal Service Support for Low-Income Consumers).

28. Subject to the provisions set forth herein, ORS does not oppose the Application of the Company for designation as an eligible telecommunications carrier.

29. ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (Supp. 2014). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Stipulation reached among the Parties serves the public interest as defined above.

30. The Parties agree to advocate that the Commission accept and approve this Stipulation in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Stipulation be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Stipulation and the terms and conditions contained herein.

31. The Parties represent that the terms of this Stipulation are based upon full and accurate information known as of the date this Stipulation is executed. If, after execution, either Party is made aware of information that conflicts with, nullifies, or is otherwise materially

different than that information upon which this Stipulation is based, either Party may withdraw from the Stipulation with written notice to the other Party.

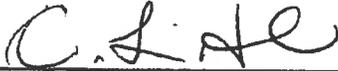
32. The Parties agree that signing this Stipulation will not constrain, inhibit, impair, or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Stipulation in its entirety, then any Party desiring to do so may withdraw from the Stipulation in its entirety without penalty or obligation.

33. This Stipulation shall be interpreted according to South Carolina law.

34. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Stipulation by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Stipulation. The Parties agree that in the event any Party should fail to indicate its consent to this Stipulation and the terms contained herein, then this Stipulation shall be null and void and will not be binding on any Party.

[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]

Representing the South Carolina Office of Regulatory Staff



Lessie Hammonds, Esquire
South Carolina Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201
Tel.: (803) 737-0803
Fax: (803) 737-0895
Email: lhammond@regstaff.sc.gov



Representing IM Telecom, LLC d/b/a Infiniti Mobile

Scott Elliott, Esquire
Elliott & Elliott, PA
1508 Lady Street
Columbia, South Carolina 29201
Tel.: (803) 771-0555
Email: selliott@elliottlaw.us