

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Carrier Oversight and Program Branch**

**RESOLUTION T-17729  
June 3, 2021**

**R E S O L U T I O N**

Resolution T-17729. Approving IM Telecom, LLC, dba Infiniti Mobile, to be designated as an Eligible Telecommunications Carrier and authorized as a California LifeLine Provider to offer prepaid wireless telephone services supported by both the federal Lifeline program and the California LifeLine Program throughout California.

**SUMMARY**

This Resolution approves the request of IM Telecom LLC, dba Infiniti Mobile (U-4457-C) (IM Telecom), a wireless reseller to be designated as an Eligible Telecommunications Carrier (ETC) by the California Public Utilities Commission (Commission or CPUC). Additionally, the Commission also approves IM Telecom as an authorized California LifeLine Service Provider. This Resolution authorizes IM Telecom to provide discounted prepaid wireless telephone services to eligible low-income households throughout California, including service areas of the Uniform Regulatory Framework carriers<sup>1</sup> and the Small Local Exchange Carriers<sup>2</sup> where its underlying carriers, AT&T Mobility, T-Mobile, and Verizon Wireless, provide wireless service. IM Telecom will not serve federally recognized Tribal Lands at this time.

This Resolution specifically approves the following prepaid wireless plans as eligible for both federal Lifeline and California LifeLine support: <sup>3</sup>

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<sup>1</sup> The URF carriers are AT&T California, Consolidated Communications, Frontier California, Inc., Frontier Communications of California, and Frontier of the South West.

<sup>2</sup> The Small LECs group is composed of Calaveras Telephone Co. (U-1004-C), Cal-Ore Telephone Co. (U-1006-C), Ducor Telephone Co. (U-1007-C), Foresthill Telephone Co. (U-1009-C), Happy Valley Telephone Co. (U-1010-C), Hornitos Telephone Co. (U-1011-C), Kerman Telephone Co. (U-1012-C), Pinnacles Telephone Co. (U-1013-C), Ponderosa Telephone Co. (U-1014-C), Sierra Telephone Co. (U-1016-C), Siskiyou Telephone Co. (U-1017-C), Volcano Telephone Co. (U-1019-C), Winterhaven Telephone Co. (U-1021-C), and Frontier Communications West Coast (U-1020-C). These telephone companies generally operate in rural areas and have regulated rates.

<sup>3</sup> Service plans must be updated according to CPUC's D.20-10-006. Also see *In the Matter of Lifeline and Link up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, Order, WC Dkts. 11-42, 09-197, & 10-90, (DA 20-1358), Released November 16, 2020.

- Basic Plan – Unlimited voice and text with 4.5 GB data for \$0 per month (Free new handset) Retail price: \$24.10.
- Standard Plan - Unlimited voice and text with 6 GB data for \$0 per month (Free new handset) Retail Price: \$28.10.

IM Telecom’s rate plans are subject to a \$39 activation fee, which the company will seek reimbursement from the California LifeLine Program for eligible households. IM Telecom is responsible for any activation/connection fee that is not eligible for reimbursement from the California LifeLine Program.<sup>4</sup>

### **IM Telecom’s Advice Letter**

On August 8, 2019, IM Telecom submitted Tier 3 Advice Letter (AL) 7 to the CPUC requesting ETC designation to offer prepaid wireless services to low-income households through the California LifeLine Program and federal Lifeline program.<sup>5</sup> IM Telecom does not seek federal high-cost fund support.

On December 11, 2019, IM Telecom filed supplement AL 7A to update information on the underlying service providers and service areas and a change in company management.

On February 23, 2021, IM Telecom filed supplement AL 7B at Staff’s request to update its service offerings consistent with CPUC Decision 20-10-006.

## **BACKGROUND**

### **Federal ETC Designation Requirements**

In order to receive federal universal service support, an applicant must be designated as an ETC. Section 254(e) of the federal Telecommunications Act of 1996 (the Act) states that “only an eligible telecommunications carrier under section 214(e) shall be eligible to receive specific federal universal service support.”<sup>6</sup>

State commissions are given the primary responsibility for designating ETCs in their states. Section 214(e)(2) of the Act states that, “[u]pon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a

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<sup>4</sup> IM Telecom AL 7B, p. 4.

<sup>5</sup> IM Telecom AL 7, p. 2.

<sup>6</sup> 47 C.F.R. §§ 54.400 *et seq.* contains the Federal Communications Commission’s (FCC) Lifeline rules issued to implement § 254 of the Act.

service area designated by the state commission”<sup>7</sup> so long as the requesting carrier meets the requirements of Section 214(e)(1).

Section 214(e)(1) of the Act provides that, a common carrier designated as an ETC must offer services supported by the federal Universal Service Fund (USF) throughout the designated service area either by using its own facilities, resale, or by a combination of its own facilities and resale of another carrier’s services and must advertise the services and the related charges using advertising media of general distribution throughout the designated service area.<sup>8</sup> Advertising must include the availability of federal Lifeline services in a manner reasonably designed to reach those likely to qualify for those services.

In addition to meeting the public interest standard, the FCC rules require that a carrier requesting ETC designation must:

1. Certify that it will comply with the service requirements applicable to the support that it receives;
2. Submit a five-year plan that describes proposed improvements or upgrades to the applicant’s network throughout its proposed service area. Wireless applicants providing Lifeline-only service are not required to submit a five-year plan;<sup>9</sup>
3. Demonstrate its ability to remain functional in emergency situations;
4. Demonstrate that it will satisfy applicable consumer and service quality standards;<sup>10</sup>
5. Demonstrate that it is financially and technically capable of providing the federal Lifeline service, specifically whether the applicant previously offered services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to any enforcement action or ETC revocation proceedings in any state; and<sup>11</sup>

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<sup>7</sup> 47 USC § 214(e)(2).

<sup>8</sup> 47 USC § 214(e)(1).

<sup>9</sup> See *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*, Report and Order and Further Notice of Proposed Rulemaking, WC Dkt Nos. 11-42, 03-109, and 12-23, and CC Dkt. 96-45 (FCC 12-11), released February 6, 2012, para. 386.

<sup>10</sup> *Id.*, ¶389. Also see 47 C.F.R. § 54.422 – Annual reporting for ETCs receiving low-income support. Also see G.O. 133 D, §4.

<sup>11</sup> *Id.*, ¶¶387-388.

6. Submit information describing the terms and conditions and rates of any voice telephone service plans offered to federal Lifeline participants. Wireless applicants must comply with the Cellular Telecommunications and Internet Association's Consumer Code for wireless service.<sup>12</sup>

### **CPUC ETC Designation Requirements**

A carrier seeking an ETC designation also must comply with CPUC's ETC rules. In Resolution T-17002 (May 25, 2006), the CPUC adopted *The Comprehensive Procedures and Guidelines for ETC Designation and Requirements for ETCs* that are consistent with FCC Universal Service Order 97-157<sup>13</sup> regarding designation of a telephone carrier as a qualified ETC. Pursuant to this Resolution, applicants seeking ETC designation in California are required to provide the following:

1. A description of the proposed service offerings and attached service area maps;
2. A description of the advertising plan(s);
3. A statement of commitment to provide service;
4. Submission of the 2-year service quality improvement plan;
5. A showing of the ability to remain functional in emergencies;
6. A statement of commitment to consumer protection;
7. Demonstration that a carrier's usage plan is comparable to that of the incumbent LEC in the proposed service area; and
8. A public interest determination.

In addition to Resolution T-17002 ETC designation rules (or its successor), carriers requesting ETC designation must also comply with General Order (GO) 153 and all related California LifeLine Program rules, orders, decisions, resolutions, and federal Lifeline rules. Carriers must also comply with CPUC User Fee and surcharge obligations.<sup>14</sup> The CPUC User Fee is levied on all telecommunications carriers providing services directly to customers and the amount of fees is a percentage calculation based on all intrastate customer billings for telecommunications services. All telecommunications service providers are also required to collect and remit public purpose program surcharges from end-users. These surcharges fund the CPUC's universal service programs.

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<sup>12</sup> 47 C.F.R. §§ 54.201 and 54.202(a).

<sup>13</sup> See *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Dkt. 96-45 (FCC 97-157), released May 8, 1997.

<sup>14</sup> See: <https://www.cpuc.ca.gov/General.aspx?id=1124>

### **California LifeLine Program Requirements**

The purpose of the California LifeLine Program is to provide high quality, residential telephone service at affordable rates to low-income citizens of California. The California Legislature directed the CPUC to ensure that the program has essential consumer protections and is competitively neutral. A carrier seeking to be a California LifeLine provider must comply with the CPUC's California LifeLine rules and requirements set forth in Public Utilities Code § 871 *et seq.*, GO 153, and various CPUC decisions including, but not limited to, D.20-10-006, D.17-01-032, D.14-01-036 and D.10-11-033. The carrier also must comply with all applicable CPUC rules, orders, decisions, resolutions, the Public Utilities Code, and federal Lifeline rules.

In order to become a California LifeLine provider, a carrier must generally demonstrate the following:

- 1) It has a valid, active operating authority issued by the CPUC;<sup>15</sup>
- 2) It is current in its remittance of CPUC User Fees and public purpose program surcharges;<sup>16</sup>
- 3) Its proposed offerings meet the CPUC's California LifeLine service elements;<sup>17</sup>
- 4) Its disclosures, schedule of rates and charges, and terms and conditions are thorough and consistent with state and federal rules;
- 5) Its marketing and selling methods are consistent with D.14-01-036 and 47 C.F.R. § 54.405(b); and
- 6) Its provisioning process is consistent with and in compliance with the California LifeLine Administrator's enrollment process, validation checks, transmission requirements, and efforts to prevent waste, fraud, and abuse.<sup>18</sup>

When a wireless telecommunications carrier becomes a California LifeLine provider, it is authorized to provide California LifeLine services statewide without any geographic restrictions.

A wireless carrier also must demonstrate that its proposed offerings meet the California LifeLine wireless service elements. The CPUC adopted the California LifeLine wireless

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<sup>15</sup> See OP 3 of D.14-01-036.

<sup>16</sup> See GO 153 §§ 9.5.3.1., 9.8.5, 9.8.6, 9.9.2, 10, and 11 and Ordering Paragraph 21 of D.13-05-035.

<sup>17</sup> See OP 26.a. of D.14-01-036, Attachment D, *See also* GO 153, Appendix A as adopted in D.14-01-036.

<sup>18</sup> On February 14, 2014, the CPUC's Communications Division issued an administrative letter titled "Guidance for Service Providers Interested in Offering California LifeLine Wireless Services Consistent with Decision 14-01-036." (Administrative Letter) ([http://www.cpuc.ca.gov/NR/rdonlyres/AEBD2120-0BE4-4811-B545-64AF0349382F/0/CDAdvice Letter Filing Components CaLLWireless APPROVED 021414.pdf](http://www.cpuc.ca.gov/NR/rdonlyres/AEBD2120-0BE4-4811-B545-64AF0349382F/0/CDAdvice%20Letter%20Filing%20Components%20CaLLWireless%20APPROVED%201414.pdf)). This Administrative Letter provides instructions and guidance for a carrier seeking to become a California LifeLine provider to offer California LifeLine wireless services.

service elements in D.14-01-036, set forth in GO 153, Appendix A-2. Some of the key service elements are as follows:

- The provider must offer participants the ability to place and receive voice-grade calls over all distances using the public switched telephone network or successor network;
- The provider must offer free, unlimited access to public safety N11s (211, 311, 511, 711, and 811) for California LifeLine eligible plans with 1,000 or more voice minutes, and to 911 emergency services for all California LifeLine eligible plans;
- The provider must offer services on a non-discriminatory basis to any customer residing in the service territory;
- The provider must offer to California LifeLine participants all handsets on the same basis as it offers to retail customers;
- The provider must offer all plans that meet or exceed the California LifeLine service elements and are consistent with the rules on a discounted basis; and
- The provider must provide free, unlimited access to customer service representatives in the same language in which the California LifeLine service was originally sold or marketed.

In addition, the wireless carrier must comply with the California LifeLine wireless service terms and conditions adopted in D.14-01-036, set forth in GO 153, Appendix A-2, including, but not limited to:

- The provider must exempt participants from paying CPUC User Fees, surcharges, and taxes;
- The provider must not assess a fee to participants for paying their bills in person by cash, check, or other forms of payment;
- The provider must allow participants to terminate service without incurring early termination fees; and
- The provider must allow participants to return their handsets within three days of service activation for free, without incurring a restocking fee.

To ensure that participants are adequately informed of the service plans, the California LifeLine provider must prominently disclose and disseminate terms and conditions, program information, and enrollment process to potential and existing participants in compliance with rules including, but not limited to, GO 153, Sections 4 and 5, D.14-01-036, D.20-10-006, Public Utilities Code § 876, and 47 C.F.R. §54.405(c). Additionally, service providers must submit their marketing materials, including scripts, to the

Communications Division (CD) for review and approval prior to dissemination and/or availability to the public.<sup>19</sup>

### **Notice/Protests**

IM Telecom served its AL 7 filing via email to all parties on the ETC service list and the AL 7 appeared in the Commission's Daily Calendar on August 14, 2019. No protests were filed.

### **DISCUSSION**

This Resolution recommends approval of IM Telecom, LLC, dba Infiniti Mobile, to be designated as an Eligible Telecommunications Carrier and authorized as a California LifeLine Provider to offer prepaid wireless telephone services supported by both the federal Lifeline program and the California LifeLine Program throughout California.

#### **Company Overview**

IM Telecom is an Oklahoma limited liability company with its principal office located at 13601 Preston Road, Suite 816E, Dallas, TX 75249. On December 1, 2015, IM Telecom received its Wireless Identification Registration ("WIR") number U-4457-C to provide resold wireless service. As a registered Commercial Mobile Radiotelephone Service (CMRS) provider in California, IM Telecom is required to report and pay public purpose program surcharges and user fees on its California intrastate telecommunications services revenues.

IM Telecom was recently acquired in 2019 by KonaTel, Inc., a Nevada corporation. The parent company as known as KonaTel, Inc., is a public Delaware corporation, that wholly owns IM Telecom, KonaTel Inc. and Apeiron Systems, Inc. KonaTel, Inc. is also a registered CMRS provider in California, with WIR number U-4482-C.

#### **Compliance with Federal ETC Requirements**

A carrier must satisfy all federal ETC requirements in order to receive an ETC designation. IM Telecom has met the following federal ETC requirements:

**Demonstration that the services intended to be offered to comply with the voice telephony definition** – Pursuant to 47 U.S.C. § 214(e)(1) and (6), IM Telecom will provide telephone exchange and exchange access through its underlying facilities-based wireless providers, AT&T Mobility, T-Mobile, and Verizon Wireless. IM Telecom will offer discounted prepaid wireless service.

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<sup>19</sup> See OP 24.c of D.14-01-036. Submission of marketing materials are sent to [CaLLmarketing@cpuc.ca.gov](mailto:CaLLmarketing@cpuc.ca.gov)

**Advertise using media of general distribution** – IM Telecom intends to advertise using media of general distribution pursuant to federal requirements.<sup>20</sup>

**Commitment to provide supported service throughout the designated service area** – IM Telecom asserts that it will provide Lifeline services on a timely basis to all requesting qualified customers within its designated service area.<sup>21</sup> However, Staff found that the Public Service Commission of Wisconsin recently revoked IM Telecom’s ETC designation for failure to offer Lifeline services and/or failed to respond to Commission data requests.<sup>22</sup>

**Demonstration of ability to remain functional** – IM Telecom asserts that the company has the ability to remain functional in emergency situations. The underlying carriers’ networks and facilities have backup power to manage traffic spikes and reroute traffic in emergency situations.<sup>23</sup>

**Demonstration of financial and technical capability** – Staff reviewed the current management team and board of directors and determined that IM Telecom has the technical capability to provide federal Lifeline services to low-income households. The company currently provides federal Lifeline service in the state of Oklahoma, since 2012.

Based on the financial statements, it appears that IM Telecom will not rely exclusively on Universal Service Funds (USF) disbursements to operate since KonaTel has different businesses that bring in multiple sources of revenue.

Staff believes that IM Telecom is financially and technically capable of providing prepaid wireless service to low-income households in California.

**Commitment to meet public interest requirements for the proposed service areas** – IM Telecom asserts that receiving the ETC designation will serve the public interest by increasing consumer choices. IM Telecom will maximize its service territories by reselling AT&T Mobility, T-Mobile, and Verizon Wireless service.<sup>24</sup>

**Commitment to satisfy all applicable consumer protection and service quality standards** – IM Telecom commits to comply with the Cellular Telecommunications and Internet Association’s Consumer Code for Wireless Service. IM Telecom also commits to satisfy all of the consumer protection and service quality standards applicable to federal Lifeline services.<sup>25</sup>

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<sup>20</sup> IM Telecom Advice Letter 7, pp. 11-12.

<sup>21</sup> *Id.*, p.13.

<sup>22</sup> See <https://apps.psc.wi.gov/pages/viewdoc.htm?docid=396107> (last visited 2/19/21)

<sup>23</sup> IM Telecom Advice Letter 7, p. 13.

<sup>24</sup> *Id.*, pp. 16-18.

<sup>25</sup> *Id.*, p. 14.



Compliance with Resolution T-17002 (or its Successor)

IM Telecom has satisfied the applicable requirements set forth in Resolution T-17002 (or its Successor) including, but not limited to: committing to providing Lifeline-only services within the proposed service area; providing the designated services; and complying with advertising rules as required by the FCC. IM Telecom states it has the ability to remain functional in emergency situations by working with its underlying carriers, AT&T Mobility, T-Mobile, and Verizon Wireless. IM Telecom commits to satisfy all applicable state and federal requirements related to consumer protection and service quality standards.

If the Commission, subsequently, (i.e., after this Resolution) alters the rules related to receipt and/or maintenance of an ETC designation in a successor Commission decision(s), the Commission can choose, at that time, to maintain the ETC related provisions adopted in this Resolution or to rely upon the new ETC related rules.

Compliance with the California LifeLine Program

Since IM Telecom is offering prepaid wireless service, it is exempt from California LifeLine Program's pre-qualification requirement.<sup>26</sup> However, IM Telecom will work through the California LifeLine's Administrator to enroll and determine eligibility before providing the services to Californians.<sup>27</sup>

Under federal Lifeline rules, an ETC that offers federal Lifeline services on a prepaid basis must require every participant to: 1) activate service or 2) complete an outgoing call before the ETC may *begin* to seek or to receive universal service support for the participant.<sup>28</sup> The FCC's objectives with this requirement are to validate that the consumer is actually using the Lifeline-supported service and to prevent waste of federal Lifeline funds. In harmony with this federal requirement, CPUC D.14-01-036 requires that the discount for the prepaid telephone service begin with the date of application approval notification or the service activation date, whichever is later.

IM Telecom proposes to market and distribute handsets to potential California LifeLine participants in multiple ways: 1) online marketing, 2) in-person at retail locations, and 3) mail or over the telephone. It is unclear whether IM Telecom will activate the service prior to shipping the handset. However, IM Telecom commits to comply with the

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<sup>26</sup> CPUC D.14-01-036, OP. 20.

<sup>27</sup> IM Telecom AL#7, pg. 28.

<sup>28</sup> 47 CFR § 54.407.

California LifeLine Administrator's enrollment and eligibility processes and will not seek reimbursement for the service until the customer activates the service from the handset.<sup>29</sup>

IM Telecom will make all plans and handsets available to California LifeLine participants as it does with its retail customers.<sup>30</sup>

Since December 2010, the CPUC has required carriers with limited ETC designation offering federal Lifeline service in California to clearly label its service. Staff recommends that IM Telecom clearly label the two wireless prepaid service plans approved in this Resolution as "*California LifeLine wireless service plans*" and refer to the California LifeLine Program, where applicable, in IM Telecom's service terms and conditions, disclosures, and marketing materials. IM Telecom's service terms and conditions, disclosures, and marketing materials including, but not limited to, customer service representative scripts, internet marketing, and posters and brochures, must be submitted to CD for review and approval prior to publication and distribution.

#### Compliance with the California LifeLine Administrator's Requirements

The California LifeLine Administrator is the sole entity responsible for determining eligibility and administering the enrollment process for both the California LifeLine Program and the federal Lifeline program. Service providers that participate in the federal program only must comply with the eligibility requirements and the Administrator's enrollment process.

IM Telecom must: 1) comply with the Administrator's enrollment and de-enrollment processes, transmission requirements, eligibility rules, and validation checks;<sup>31</sup> and 2) facilitate, participate in, and comply with the Administrator's enrollment process to eliminate waste, fraud, and abuse.<sup>32</sup>

Currently, IM Telecom lacks experience with the California LifeLine Program Administrator's enrollment process, protocols, transmission requirements, etc., and is in the preliminary stages of becoming and operating as a California LifeLine provider. Staff recommends that the Commission direct IM Telecom to work with the Administrator and Staff to finalize its provisioning process and solidify its understanding of the program's processes prior to the company launching its federal Lifeline and California LifeLine services.

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<sup>29</sup> IM Telecom AL#7, pp. 5-6.

<sup>30</sup> *Id.*, pp. 8, 15 & 24.

<sup>31</sup> See GO 153.

<sup>32</sup> *Id.*

### Compliance with Commission User Fee and Surcharge Obligations

Staff verified that IM Telecom and KonaTel are current with payments of CPUC User Fees and public purpose program (PPP) surcharges. As these are ongoing Commission obligations, IM Telecom and KonaTel must continue to remain current with their PPP surcharge and User Fee reporting and payments. Failure to comply may lead to citations and enforcement action, assessment of fees and/or interest, revocation of IM Telecom's WIR operating authority and ETC designation in California.

### Future Changes to ETC Designated Service Areas and to Federal Lifeline and California LifeLine Supported Service Plans

As a California LifeLine service provider, IM Telecom is authorized to provide California LifeLine services throughout the state without geographic restrictions, excluding federally-recognized Tribal lands. However, regarding future changes that IM Telecom may want to make to its service areas associated with its ETC designation in California, Staff recommends as follows:

1. For changes to its approved ETC-designated service area, the company should file a Tier 2 advice letter that describes the areas to be served, a list of the geographic service areas, and a map in Shapefile format of the proposed area.
2. To request authority to offer federal Enhanced Lifeline service on Tribal lands, IM Telecom should file a Tier 2 advice letter demonstrating compliance with 47 C.F.R. § 54.202(c) and provide with the advice letter the respective tribe's responses or a declaration in the event a tribe did not respond to the company's notification. The advice letter should describe the specific Tribal lands to be served and include maps in Shapefile format of the proposed Tribal lands. If IM Telecom intends also to claim California LifeLine support for any service plans it intends to offer on Tribal lands, then it should demonstrate compliance with the California LifeLine Program's rules.
3. For future changes to IM Telecom's federal Lifeline and/or California LifeLine supported service plans, the company shall file a Tier 2 advice letter that describes the change(s).

### Public Interest Determination

Before recommending designation of a carrier as an ETC, Staff must determine that doing so would be in the public interest for California consumers.<sup>33</sup> Designating IM Telecom as an ETC will serve the public interest because it will increase consumer choices to low-

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<sup>33</sup> *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Dkt 96-45 (FCC 05-46), released Mar 17, 2005 ¶ 40 and CPUC Resolution T-17002, *Appendix A, Section II-G: Public Interest Determination*.

income populations and allow service to reach greater service areas. Upon review, Staff finds that IM Telecom meets the criteria for public interest determination.

#### Minimum Service Standards for Lifeline Services

In the 2016 Lifeline Order<sup>34</sup>, the FCC set minimum service standards for mobile broadband. Service standards are updated on a regular basis due to the rapid change in technology. The current minimum service levels for mobile voice and broadband in California are unlimited voice and text, and 4.0 GB of mobile data per month.<sup>35</sup>

Staff finds that IM Telecom's Basic Plan with unlimited voice, text and 4.5 GB of data for \$0 per month and the Standard Plan with unlimited voice, text and 6 GB of data for \$0 per month reasonable and meet the FCC's minimum service standards.<sup>36</sup>

#### Due Diligence Review

An integral part of Staff's processing of an ETC designation request is a due diligence review to determine if the applicant has engaged in behavior that may call into question its fitness to be granted ETC designation to serve California consumers. The due diligence review includes, but is not limited to, conducting independent research about the applicant's past operations to provide the Commission with information that may be pertinent in deciding whether or not to grant the ETC request. Typical research methods include performing Lexis/Nexis legal resource searches, internet searches, reviewing industry and trade publications, querying other governmental agencies, contacting the FCC and the Universal Service Administrative Company (USAC), reviewing a company's history of operations, and consulting with the Commission's Consumer Protection and Enforcement Division and Consumer Affairs Branch.

Upon review, Staff discovered that an affiliate of KonaTel, Inc., Aperion Systems had their Digital Voice Service (DVS) registration revoked by CPUC in 2017.<sup>37</sup> It appears that KonaTel was not aware of this situation as it happened before they acquired Aperion Systems. The company also clarified that Aperion Systems operates in California but provides information service APIs and SD-WAN network services to retail customers in California, which is not subject to CPUC surcharges and user fees.<sup>38</sup>

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<sup>34</sup> See *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, Third Report and Order, Further Report and Order, and Order on Reconsideration, WC Dkts. 11-42, 09-197, & 10-90, (FCC 16-38), released April 27, 2016, paras. 73-98; 47 CFR ¶ 54.408.

<sup>35</sup> See D.20-10-006, Attachment 1.

<sup>36</sup> See <https://www.fcc.gov/general/lifeline-program-low-income-consumers>; See also IM Telecom AL #7B.

<sup>37</sup> See CPUC Resolution T-17558.

<sup>38</sup> Responses to Staff data request, dated October 20, 2020.

Staff did not discover any substantial issues that would lead to a denial of IM Telecom's request for authority to operate as an ETC service provider in the state of California. If substantive issues emerge after this Resolution's effective date, the Commission has authority to pursue an enforcement action which may include, but is not limited to the following: fines, penalties, and revocation of ETC designation in California.

### Safety Considerations

Given that safety and emergency communications are common concerns for all of California's telephone customers, Staff recommends that the Commission require IM Telecom to fully and clearly inform prospective federal Lifeline participants that access to Enhanced 911 (E-911) and/or 911 may be limited or unavailable in the event of an emergency or power outage. Such disclosures include, but are not limited to, clear statements on marketing materials and conspicuous placement on the public website in the form of information content on webpages, footnotes, and/or listings on a frequently asked questions (FAQ) webpage.

### COMMENTS

In compliance with P.U. Code § 311(g), the Commission emailed a Notice of Availability (NOA) on April 29, 2021, informing all parties on the Eligible Telecommunications Carrier service list of the availability of this resolution for public comments at the Commission's website [www.cpuc.ca.gov](http://www.cpuc.ca.gov). The NOA also informed parties that the final confirmed resolution adopted by the Commission will be posted and available on the same website.

### FINDINGS AND CONCLUSIONS

1. IM Telecom is an Oklahoma limited liability company with its principal office located at 13601 Preston Road, Suite 816E, Dallas, TX 75249. On December 1, 2015, IM Telecom received its Wireless Identification Registration ("WIR") to provide resold wireless service.
2. On August 8, 2019, IM Telecom submitted Tier 3 Advice Letter (AL) 7 to the CPUC requesting ETC designation to offer prepaid wireless services to low-income households through the California Lifeline and federal Lifeline programs.
3. On December 11, 2019, IM Telecom filed supplement AL 7A to update information on the underlying service providers and service areas, and a change in company management.
4. On February 23, 2021, IM Telecom filed supplement AL 7B to update its LifeLine service offerings consistent with D.20-10-006.

5. IM Telecom does not seek federal high-cost fund support.
6. IM Telecom does not propose to offer federal LifeLine service in Tribal Lands at this time.
7. IM Telecom commits to comply with the California LifeLine Program's enrollment process, including all eligibility rules and validation checks, and to provide the Administrator all required information for the Administrator to determine eligibility.
8. Failure to comply with CPUC user fee and public purpose program surcharge remittance and reporting requirements may lead to enforcement action which may include, but is not limited to assessment of fees and/or interest, revocation of IM Telecom's WIR operating authority and ETC designation in California.
9. IM Telecom should file a Tier 2 Advice Letter for any future changes to its approved designated service areas, or any request to serve Tribal Lands. This request shall include a description of the areas to be served; a list of the geographic areas; and a map(s) in Shapefile format of the proposed service area.
10. IM Telecom should file a Tier 2 Advice Letter for any future changes to its approved federal Lifeline and/or California LifeLine service plans.
11. IM Telecom commits to offer two prepaid federal Lifeline and California LifeLine supported wireless plans, for the following prices:
  - Basic Plan – Unlimited voice and text with 4.5 GB data for \$0 per month to federal Lifeline and/or California LifeLine eligible households with a free new handset
  - Standard Plan - Unlimited voice and text with 6 GB data for \$0 per month federal Lifeline and/or California LifeLine eligible households with a free new handset
12. Staff conducted a due diligence review to determine IM Telecom's fitness as it relates to business practice behavior and customer protection that may call into question its fitness to be granted Eligible Telecommunications Carrier designation to serve California consumers and did not find any issues that would prevent such this type of designation.
13. The Commission may pursue an enforcement action which may include fines, penalties, denial, suspension, and/or revocation of IM Telecom's Eligible Telecommunications Carrier designation status if substantive issues emerge after this Resolution's effective date.

14. As an Eligible Telecommunications Carrier provider, IM Telecom is authorized to provide discounted wireless services to low-income households in California in the service areas of its underlying service providers, AT&T Mobility, T-Mobile, and Verizon Wireless.
15. Staff recommends approval of IM Telecom's ETC designation request contingent on the following:
  - File required annual reports and compliance reports with the FCC, e.g., Form 481 and Form 555.
  - Provide adhoc and recurring reports as required by PU Codes 581, 581 & 584;
  - Comply with 47 C.F.R. § 54.401(d) by filing the required information directly with USAC to certify that its federal Lifeline wireless plans meet federal requirements under the USAC administration. Within 30 days of receipt of certification from USAC, IM Telecom shall send a letter to the Director of the Communications Division with a copy of the information submitted to USAC and a copy of USAC's certification @ [ETCReportingtoStates@cpuc.ca.gov](mailto:ETCReportingtoStates@cpuc.ca.gov);
  - Continue to comply with CPUC User Fee and surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its ETC designation, wireless identification registration, and/or authority to operate as a California LifeLine provider in California and denial and/or suspension of its California LifeLine reimbursements;
  - Provide terms and conditions, disclosures, and marketing materials, including scripts used by customer service representatives, to the CPUC California LifeLine staff for review and approval prior to dissemination and/or availability to the public;
  - Post safety related information about wireless service coverage limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website;
  - Abide by all applicable state and federal consumer protection rules, including CPUC General Order 168, which is the *Consumer Bill of Rights Governing Telecommunications Services*, and comply with the CTIA-The Wireless Association's *Consumer Code for Wireless Service*, and comply with directions to carriers regarding unlocking of phones; and
  - Comply with all applicable CPUC Decisions regarding emergency consumer protections and service quality rules.

16. On April 30, 2021, the Commission emailed a draft of this Resolution to the Eligible Telecommunications Carrier service list for public comments.

THEREFORE, IT IS ORDERED that:

1. The Commission approves IM Telecom, LLC (IM Telecom) (U-4499-C) as an Eligible Telecommunications Carrier and a California LifeLine Service Provider to offer prepaid wireless services supported by both the federal Lifeline program and the California LifeLine Program where its underlying carriers, AT&T Mobility, T-Mobile, and Verizon Wireless provides coverage.
2. The Commission approves the following prepaid wireless service plans for federal Lifeline and California LifeLine support:
  - Basic Plan – Unlimited voice and text with 4.5 GB data for \$0 per month to federal Lifeline and/or California LifeLine eligible households with a free new handset. Retail price: \$24.10.
  - Standard Plan - Unlimited voice and text with 6 GB data for \$0 per month to federal Lifeline and/or California LifeLine eligible households with a free new handset. Retail price: \$28.10.
3. IM Telecom’s Eligible Telecommunications Carrier designation approval shall be contingent upon the following:
  - File required annual reports and compliance reports with the FCC e.g., Form 481 and Form 555;
  - Provide adhoc and recurring reports as required by PU Codes 581, 582 and 584;
  - Comply with 47 C.F.R. § 54.401(d) by filing the required information directly with USAC to certify that its federal Lifeline wireless plans meet federal requirements under the USAC administration. Within 30 days of receipt of certification from USAC, IM Telecom shall send a letter to the Director of the Communications Division @[ETCReportingtoStates@cpuc.ca.gov](mailto:ETCReportingtoStates@cpuc.ca.gov) with a copy of the information submitted to USAC and a copy of USAC’s certification;
  - Continue to comply with CPUC User Fee and surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its ETC designation, wireless identification registration, and/or authority to operate as a California LifeLine provider in California and denial and/or suspension of its California LifeLine reimbursements;



- Provide terms and conditions, disclosures, and marketing materials, including scripts used by customer service representatives, to the CPUC California LifeLine staff for review and approval prior to dissemination and/or availability to the public;
  - Post safety related information about wireless service coverage limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website;
  - Abide by all applicable state and federal consumer protection rules, including CPUC General Order 168, which is the *Consumer Bill of Rights Governing Telecommunications Services*, and comply with the CTIA-The Wireless Association's *Consumer Code for Wireless Service*, and comply with directions to carriers regarding unlocking of phones;
  - IM Telecom must work with the California LifeLine Program's Administrator to offer the state and federal universal service supported services within one-year from the effective date of this Resolution. At nine months after this Resolution's effective date, the company must provide Staff with a status update of its plans to launch the federal Lifeline and California LifeLine services. If the company does not launch these services for subscription by eligible low-income households within the prescribed time period, its ETC designation and authority to operate as a California LifeLine provider will be revoked; and,
  - Comply with applicable CPUC Decisions regarding emergency consumer protections and service quality rules, such as D.19-08-025 and G.O. 133 D.
4. IM Telecom shall comply with the California Public Utilities Commission's General Order 153 and the California LifeLine Administrator's enrollment process including, but not limited to, validation checks, transmission requirements, and efforts to prevent waste, fraud, and abuse.
  5. IM Telecom shall work with the California LifeLine Administrator and Staff to finalize its provisioning process and solidify its understanding of the program's processes prior to the company launching its federal Lifeline wireless services.
  6. IM Telecom shall file a Tier 2 Advice Letter to request approval for any future changes to its approved designated service areas, or any request to serve Tribal Lands. This request shall include a description of the areas to be served; a list of the geographic areas; and a map(s) in Shapefile format of the proposed service area.
  7. IM Telecom shall file a Tier 2 Advice Letter to request any future changes to its federal Lifeline and/or California LifeLine supported service plans.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the California Public Utilities Commission at \_\_\_\_\_ . The following Commissioners approved it:

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Rachel A. Peterson  
Executive Director