

ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	√		
Bennett	√		
Freeman	√		
Veleta	√		
Ziegner	√		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF IM TELECOM, LLC D/B/A) CAUSE NO. 41052 ETC 100
INFINITI MOBILE FOR DESIGNATION AS)
AN ELIGIBLE TELECOMMUNICATIONS) APPROVED: NOV 20 2024
CARRIER IN THE STATE OF INDIANA)

ORDER ON RECONSIDERATION AND REHEARING

Presiding Officers:

David E. Ziegner, Commissioner

Ann S. Pagonis, Administrative Law Judge

On January 24, 2024, IM Telecom, LLC (“Petitioner” or “IM Telecom”) filed its Petition (“Petition”) for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Indiana for the limited purpose of offering Lifeline service to qualified households with the Indiana Utility Regulatory Commission (“Commission”). IM Telecom sought designation as an ETC pursuant to § 214(e)(2) of the Federal Communications Act of 1934, as amended (the “Act”) to provide wireless services supported by the Federal Universal Service Fund’s (“USF”) Lifeline program. IM Telecom does not seek authority to provide services supported by the USF’s high-cost program.

An evidentiary hearing on the Petition was held on March 26, 2024. The Commission issued an Order on June 5, 2024 (the “Order”), denying the Petition primarily on the grounds that Petitioner did not provide sufficient documentation or adequately demonstrate it has agreements with the wireless carriers whose service Petitioner proposed to resell (the “Underlying Carrier Agreements”).

On June 25, 2024, Petitioner filed its Verified Petition for Rehearing and Reconsideration (the “Rehearing Petition”), including a request to file additional, confidential evidence of its Underlying Carrier Agreements, a Certificate of Territorial Authority (“CTA”), and supplemental testimony of Petitioner’s witness, John Ripley. Petitioner stated that this additional information was not previously available and that, if admitted, it would affect the outcome of this proceeding. The Indiana Office of Utility Consumer Counselor (“OUCC”) did not file a response to or any pre-filed testimony on the Rehearing Petition.

On July 25, 2025, the Presiding Officers issued a docket entry granting the request for Rehearing and Reconsideration. On August 8, 2024, the Presiding Officers issued questions to Petitioner via docket entry, and, on August 27, 2024, Petitioner filed its responses. A public hearing was held on the Rehearing Petition on September 11, 2024 at 9:00 a.m. in Hearing Room 222 at PNC Center, 101 West Washington Street, Indianapolis, Indiana. Counsel for Petitioner and the OUCC appeared and participated at the hearing. Petitioner’s evidence and supplemental testimony were admitted into evidence without objection.

Based on the applicable law and evidence, the Commission finds:

1. Commission Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as provided for by law. Pursuant to the Act, 47 U.S.C. § 151 *et seq.*, and applicable Federal Communications Commission Rules, 47 C.F.R. §§ 54.201 and 54.203, the Commission is authorized to designate ETCs, thereby enabling those so designated to apply for federal universal service support under Section 254 of the Act in accordance with the Commission's Orders in Cause Nos. 40785, 41052, and 42067. The Commission also has jurisdiction over communications service providers ("CSPs") pursuant to Ind. Code § 8-1-2.6-13, including designation of CSPs as ETCs under 47 U.S.C. § 214. The Commission therefore has jurisdiction over Petitioner and the subject matter of this Cause.

2. Background. Our Order denying the Petition concluded that Petitioner failed to satisfy four criteria for ETC designation, which we address in our discussion below. The four criteria all stem from Petitioner's failure to provide sufficient documentation or an adequate demonstration that it has agreements in place with any wireless carrier whose service the Petitioner intends to resell.

3. Petition for Reconsideration and Rehearing. In its Rehearing Petition, Petitioner provided supplemental testimony of Mr. Ripley indicating that following the issuance of the Order, the Petitioner learned that it could provide the requested ETC service by relying exclusively on the services provided by T-Mobile and it will not rely on reselling the services of AT&T or Verizon. Mr. Ripley testified that, to the extent the Order denied Petitioner's ETC designation request based on an inadequate demonstration of the agreements with Verizon and AT&T, he believes those issues are now moot. To the extent the Commission denied the Petition based on an inadequate demonstration of its underlying reseller agreements with T-Mobile and Prepaid Wireless Group, LLC ("PWG"), Mr. Ripley testified that Petitioner obtained additional evidence in the form of the confidential underlying agreements. At the September 11, 2024 evidentiary hearing, the Presiding Officers admitted into evidence Petitioner's Confidential Exhibits 8-C, 9-C, 10-C, and 11-C, which provide legal documentation of the underlying agreements between Petitioner, PWG, Prepaid Wireless Wholesale, LLC ("PWW"), and T-Mobile. Mr. Ripley noted that, while Petitioner originally filed a letter evidencing the existence of a contractual relationship between T-Mobile and PWG, which it believed satisfied the Presiding Officers' April 15, 2024 docket entry request to provide "legal documentation" of the underlying agreement, Petitioner subsequently obtained the confidential Underlying Carrier Agreements. After the Order was issued, Petitioner was able to file the Underlying Carrier Agreements as confidential exhibits.

Petitioner also offered into evidence the CTA issued to PWG to provide communications services in Indiana, which was conferred by the Commission after Petitioner submitted its late-filed exhibits in response to the Presiding Officers' April 15, 2024 docket entry questions. He noted that the Commission issued a CTA on May 8, 2024, which was after the Presiding Officers' April 22, 2024 deadline for Petitioner to submit its late filed exhibits. In the August 8, 2024 docket entry, the Presiding Officers noted that although Petitioner explained that the Commission granted a CTA to PWW on May 8, 2024, in Cause No. 46040, the CTA issued in Cause No. 46040, was issued to PWG. In response, the Petitioner stated that in Petitioner's Exhibit 11-C, Petitioner provided the 12th Amendment to the Wholesale Supply Agreement which provides in Section 3.1(i) that PWW is a wholly owned subsidiary of PWG. Petitioner stated that the pertinent provision explains the relationship between the entities and identifies the entity authorized to provide service to end users.

Nonetheless, Petitioner stated that, to alleviate any concerns regarding the appropriate holder of the CTA, PWW submitted its application for a CTA to the Commission's Communications Division on August 16, 2024. At the September 11, 2024 evidentiary hearing, Petitioner's Late-Filed Exhibit 3 was admitted into the record, which ultimately reflected the Commission's decision to approve PWW's request for a CTA in Cause No. 46105 on October 2, 2024. In its August 27, 2024 docket entry response admitted as Exhibit 12, Petitioner also provided proof that PWW is registered with the Indiana Secretary of State.

4. Commission Discussion and Findings. Petitions for Rehearing and Reconsideration are governed by the requirements of 170 IAC 1.1-22(e)(1). This rule requires a petition seeking rehearing to be verified or supported by affidavit and set forth the following:

- i. The nature and purpose of the evidence to be introduced at rehearing.
- ii. The reason or reasons such new evidence was not available at the time of the hearing or could not be discovered with due diligence.
- iii. A statement of how such evidence purportedly would affect the outcome of the proceeding if received into the record.
- iv. A showing that such evidence will not be merely cumulative.

In our July 25, 2024 docket entry, we found that Petitioner satisfied the requirements for rehearing and reconsideration. As we note above, the evidentiary record now contains the Underlying Carrier Agreements between Petitioner, PWW, PWG, and T-Mobile, along with the relationship between the parties; all of which was established in Petitioner's Exhibits 8-C, 9-C, 10-C, and 11-C. The record also establishes that both PWW and PWG possess CTAs and are registered with the Indiana Secretary of State. We now turn to each of the four deficiencies identified in our Order.

A. Required Service Offerings – Broadband Internet Access Service and Voice Telephony Service. In paragraph 5(B)(1) and (2) of our Order, we concluded that Petitioner did not establish it possesses all the technical functionalities required in the *Lifeline Reform Order*¹ and pursuant to 47 C.F.R. § 54.101(a), including broadband internet access service and voice telephony service because Petitioner did not provide sufficient documentation or adequate demonstration that it has agreements in place with any wireless carrier. In consideration of the additional evidence admitted on rehearing, we now find that sufficient evidence exists of underlying agreements establishing Petitioner's right to resell services of T-Mobile through PWW and PWG. The additional evidence also establishes that Petitioner can provide the requested Lifeline service solely through resale of T-Mobile's services. Accordingly, we find that Petitioner satisfies the requirement that it possess all the technical functionalities required in the *Lifeline Reform Order* and pursuant to 47 C.F.R. § 54.101(a), including broadband internet access service and voice telephony service.

B. Designated ETC Service Territory. In paragraph 5(H) of our Order, we found that Petitioner did not demonstrate its ability to provide service throughout the designated service area because it did not sufficiently demonstrate it has agreements in place with underlying

¹ *Lifeline and Link Up Reform and Modernization*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*").

carriers. In consideration of the additional evidence admitted on rehearing, we now find that sufficient evidence exists of underlying agreements establishing Petitioner's right to resell services of T-Mobile through PWW and PWG. The additional evidence also establishes that Petitioner can provide the requested Lifeline service solely through resale of T-Mobile's services. Petitioner's designated ETC service territory shall align with the coverage map of T-Mobile, which is on page 77 of Petitioner's Exhibit 1. Based on this evidence, we find that Petitioner has now sufficiently demonstrated its ability to provide service throughout the designated service area. We also find that within 60 days of this Order, Petitioner shall submit a detailed service area map in a zipped shapefile or geodatabase format. If neither of those formats are available to Petitioner, Petitioner may submit the map in an alternative format after obtaining specific approval from the Commission's Communications Division.

In addition, the Commission notes that Lifeline-only ETCs have been referenced by other ETCs seeking to relinquish ETC obligations. The Commission emphasizes that it is essential that Petitioner respond to inquiries regarding its ability to serve customers in the event another ETC serving the same designated service area or portions thereof seeks relinquishment of its obligations as an ETC under Section 214(e)(4) of the Act or in the event no common carrier will serve a community pursuant to Section 214(e)(3) of the Act.

C. Facilities-Ownership. In paragraph 5(I) of our Order, we concluded that Petitioner failed to demonstrate the existence of Underlying Carrier Agreements and to properly identify the facilities-based wireless carriers whose service Petitioner is reselling, as required by the Commission's General Administrative Order ("GAO") 2019-5. Based on the evidence admitted on rehearing, we find that Petitioner has demonstrated the existence of its Underlying Carrier Agreements with T-Mobile and its aggregators, PWW and PWG, and, as such, we find that the Petitioner has satisfied the requirements of GAO 2019-5.

D. Public Interest Considerations. In paragraph 5(J) of the Order, we evaluated the public interest considerations of Petitioner's request and concluded that Petitioner failed to adequately demonstrate its ETC offering will result in increased customer choice or to establish the advantages and disadvantages of the offering. We discuss these issues in turn below.

i. Increased Customer Choice. In our Order, we concluded that we could not determine if Petitioner's ETC designation will increase customer choice because Petitioner's proposed ETC service area was not clearly defined. As we noted above, Petitioner showed that it can provide the requested Lifeline service solely through resale of T-Mobile's services. Therefore, Petitioner's designated ETC service territory will align with the coverage map of T-Mobile, which is on page 77 of Petitioner's Exhibit 1. Petitioner's ETC coverage area is now clearly defined. We find that Petitioner's offering brings increased choice to Lifeline eligible customers in additional areas of Indiana. Also, this offering may reach a particular segment of Lifeline eligible customers that have not yet been reached. We therefore find that Petitioner's ETC designation will increase customer choice and promote competition by expanding the availability of wireless services to qualifying Indiana customers.

ii. Advantages and Disadvantages of the Offering.

Because Petitioner failed to clearly identify its proposed designated ETC service area or demonstrate that agreements were in place with resellers, we were unable to identify the advantages and disadvantages of Petitioner's ETC offering in our Order. With the additional evidence on rehearing, the record reflects that Petitioner's Lifeline service offering will expand available, accessible service options for additional Lifeline-eligible Indiana households. Petitioner's proposed offering will also advance the Act's principal goals of securing lower prices and higher quality for consumers and expand broadband internet access. Accordingly, we find that Petitioner has satisfied this criterion of our public interest inquiry.

E. Conclusion. Based on the evidence presented and discussed above and subject to the compliance requirements set forth in this Order, the Commission finds the Petitioner has met all the ETC eligibility requirements, and the public interest is served by granting ETC status to Petitioner in its proposed designated service area. As an ETC in Indiana, Petitioner must comply with the prospective reporting requirements and conditions set forth in this Order. The Commission has the statutory authority to investigate, as necessary, Petitioner's compliance with this Order and eligibility for ETC designation.

5. Additional Conditions Imposed on Petitioner's Designation as an ETC. In accordance with the Commission's findings above, Petitioner shall be subject to the following conditions:

- i. Approval shall be subject to Petitioner filing under this Cause, within 60 days of this Order, a detailed service area map in a zipped shapefile or geodatabase format. Alternatively, Petitioner may seek specific permission from the Commission's Communications Division to file the map in a different format if the two options above pose a hardship.
- ii. Pursuant to 47 C.F.R. § 54.410(f) and 47 C.F.R. § 54.416, Petitioner shall provide the Commission with a copy of its Lifeline re-certification results that it files annually with Universal Service Administrative Company and the Federal Communications Commission.
- iii. Consistent with 47 C.F.R. § 54.407(c)(1), Petitioner will only receive universal service support once a subscriber activates service. Petitioner will de-enroll an account in accordance with federal regulations regarding non-usage and shall report annually the number of subscribers de-enrolled for non-usage under 47 C.F.R. § 54.405(e)(3). This de-enrollment information must be reported by month and must be submitted to the Commission at the time an ETC submits its annual certification report pursuant to 47 C.F.R. § 54.416.
- iv. Prior to providing Lifeline service, Petitioner shall file an informational tariff and notify the Commission of changes in its terms, conditions, or free minute allocations in the form of a new tariff.
- v. Petitioner shall provide its Lifeline customers with 911 and E911 access regardless of activation status and availability of prepaid minutes as of the date it provides Lifeline services in Indiana. Petitioner shall provide its Lifeline customers with E911 compliant handsets and will replace, at no charge, any noncompliant headsets of existing customers.

- vi. Petitioner shall contribute to the InTRAC fund consistent with the Commission requirements and Ind. Code ch. 8-1-2.8 and shall include the InTRAC surcharge in its required tariff.
- vii. Petitioner shall pay applicable fees, such as the public utility fee, InTRAC fee, the Indiana USF fee, wireless emergency E911 fee, and any other applicable fees. Petitioner shall include the Indiana USF surcharge in its informational tariff.
- viii. If Petitioner needs to add to or reduce its ETC designated service area, Petitioner shall file a petition amending its service area under a sub-docket in this Cause.

6. Confidentiality. On June 25, 2024, Petitioner filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information in this Cause, which was supported by affidavit showing that certain information to be submitted to the Commission was trade secret information as defined in Ind. Code § 24-2-3-2 and should be treated as confidential in accordance with Ind. Code §§ 5-14-3-4 and 8-1-2-29. In a Docket Entry dated July 31, 2024, the Presiding Officers found the information should be held confidential on a preliminary basis. After review of the information and consideration of the affidavit, we find the information is trade secret information as defined in Ind. Code § 24-2-3-2, is exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29, and shall be held as confidential and protected from public access and disclosure by the Commission.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Petitioner's request for designation as an eligible telecommunications carrier for the limited purpose of offering Lifeline service to qualified households, for the service area identified in Petitioner's evidence, is granted.

2. Petitioner's request for authority to apply for or receive USF funds from the Lifeline program pursuant to 47 U.S.C. § 254 is granted, subject to Petitioner's compliance with the terms, conditions, and reporting requirements of this Order and applicable laws.

3. Petitioner shall provide a detailed service area map to the Commission's Communications Division in a zipped shapefile or geodatabase format. If neither of those formats are available to Petitioner, Petitioner may seek specific approval from the Commission's Communications Division to file the map in an alternative format.

4. Petitioner shall comply with the Reporting Requirements and the Conditions set forth above in Finding No. 5 with respect to Petitioner's designation as an ETC.

5. Petitioner's terms and conditions of service should be incorporated into its Lifeline tariff for Indiana and filed with the Commission's Communications Division for review prior to Petitioner making its universal service offering available to eligible consumers in Indiana

6. The information filed by Petitioner in this Cause pursuant to the Motion for Protection and Nondisclosure of Confidential and Proprietary Information is deemed confidential pursuant to Ind. Code § 5-14-3-4, is exempt from public access and disclosure by Indiana law, and

shall be held confidential and protected from public access and disclosure by the Commission.

7. This Order shall be effective on and after the date of its approval.

HUSTON, BENNETT, FREEMAN, VELETA, AND ZIEGNER CONCUR:

APPROVED: NOV 20 2024

**I hereby certify that the above is a true
and correct copy of the Order as approved.**

Dana Kosco
Secretary of the Commission