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IDAHO PUBLIC
UTILITIES COMMISSION

October 3, 2013

VIA UPS OVERNIGHT MAIL

Ms. Jean Jewell, Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
472 West Washington
Boise, ID 83720-0074

INC-T-13-01

Re: In the Matter of the Petition of Inland Cellular for Conditional Expansion of its Eligible Telecommunications Carrier Designation Under 47 USC Section 214(e)(2)

Dear Ms. Jewell:

Enclosed for filing in the above-referenced matter are the original and seven copies of Petition of Inland Cellular for Conditional Expansion of its Eligible Telecommunications Carrier Area and Request for Expedited Consideration

Also enclosed is a confirmation card that I ask be completed as to the date of filing and returned. Should you have any questions regarding this filing, please contact me.

Very truly yours,

Davis Wright Tremaine LLP

Mark P. Trinchero

MPT/jan

Enclosures

cc: Service List

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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of)	Case No. <u>INC-T-13-01</u>
)	
Inland Cellular)	PETITION OF INLAND CELLULAR
)	FOR CONDITIONAL EXPANSION
For Conditional Expansion of Its)	OF ITS ELIGIBLE
Eligible Telecommunications Carrier)	TELECOMMUNICATIONS CARRIER
Designation Under 47 U.S.C. § 214(e)(2))	AREA & REQUEST FOR EXPEDITED
)	CONSIDERATION

Inland Cellular LLC (d/b/a Inland Cellular) (“Inland Cellular”), hereby petitions the Idaho Public Utilities Commission (“Commission”) for modification of Order No. 30212¹, in which the Commission designated Inland Cellular Telephone Company (“ICTC”)² an Eligible Telecommunications Carrier (“ETC”) in specified non-rural wire centers in Idaho (“ETC Area”). Inland Cellular requests that the Commission grant a conditional expansion of Inland Cellular’s ETC Area to include areas outside its existing ETC Area for the purposes of establishing eligibility to participate in the Tribal Mobility Fund Phase I auction to be held by the Federal Communications Commission (“FCC”) on December 19, 2013 (“Auction 902”). Inland Cellular further requests expedited consideration of this Petition in order to satisfy the FCC’s Auction 902 Short-Form Application requirement that an applicant must be designated as an ETC for the areas on

¹ See *In the Matter of the Petition of Inland Cellular Telephone Company for Designation as an Eligible Telecommunications Carrier 47 U.S.C. § 214(e)(2), Case No. INC-T-06-02, Order No. 30212* (“2006 Inland Cellular ETC Order”).

² Inland Cellular Telephone Company filed its petition on behalf of Washington RSA No. 8 Limited Partnership (d/b/a Inland Cellular) (study area code (“SAC”) 479007).

which it wishes to bid for Tribal Mobility Fund Phase I support at the time it submits its Short Form Application.³ The deadline for Short Form Applications is currently scheduled for October 9, 2013.⁴

I. Modification - Name and Address of Petitioner

1. The name and address of Petitioner is Inland Cellular LLC, 103 South 2nd Street, P.O. Box 688, Roslyn, Washington 98941. James K. Brooks shall be the designated representative with the same mailing address as Petitioner. Official documents to be sent electronically are to be sent to jbrooks@inlandnet.com.

2. The original petition for ETC designation in Commission Case No. INC-T-06-02 was filed by ICTC as general partner of and on behalf of Washington RSA No. 8 Limited Partnership (“WA8LP”) (d/b/a Inland Cellular). In late December of 2012, ICTC purchased the remaining limited partnership interest in WA8LP. ICTC formed a subsidiary called Inland Cellular LLC (d/b/a Inland Cellular) and by petition to the FCC in January of 2013, the cellular licenses⁵ for WA8LP were transferred to Inland Cellular LLC; shortly thereafter, all assets, liabilities, revenues and expenses of WA8LP were transferred to Inland Cellular LLC.

II. Changes in Universal Support.

1. The Ordering clause in the 2006 Inland Cellular ETC Order states:

IT IS HEREBY ORDERED that Inland Cellular Telephone Company's Petition for eligible telecommunications carrier designation as to the non-rural wire centers set forth in Exhibit B therein is granted.

³ See Tribal Mobility Fund Phase I Auction Rescheduled for December 19, 2013; Notice and Filing Requirements and Other Procedures for Auction 902, *Public Notice*, AU Dockets No. 13-53; DA 13-1672, para. 107.

⁴ The FCC has suspended the Short-Form Application filing window due to the Government-wide lapse in funding and will announce changes, if any, to the previously scheduled deadline by public notice “soon after resumption of regular [FCC] operations. See Tribal Mobility Fund Phase I Auction (Auction 902) Short-Form Application Filing Window Suspended, *Public Notice*, AU Docket No. 13-53, DA 13-201 (October 1, 2013).

⁵ See petition of Inland Cellular Telephone Company, *In the Matter of the Petition of Inland Cellular for Designation as an Eligible Telecommunications Carrier* 47 U.S.C. § 214(e)(2), at 4.

and,

IT IS FURTHER ORDERED that the Petition as to the partial rural wire centers and the rural wire centers set forth in Exhibits C and D therein is denied.

2. From its implementation until December 31, 2011, Universal Service Support for Competitive Eligible Telecommunications Carriers was based on the incumbent local exchange carriers' level of support for these exchanges/wire centers. This has been referred to as the Identical Support Rule. The FCC eliminated the Identical Support Rule⁶ and froze identical support as of December 31, 2011, and started a five-year phase-out of this support which commenced on July 1, 2012.

3. To replace this support for mobile providers, the FCC intends to implement Mobility Fund Phase II⁷ which will not be dependent on incumbent local exchange carriers' level of support for these exchanges/wire centers. Instead, it will be predicated on FCC designated eligible geographic areas and whether the area funded is within the ETC mobile carrier's licensed service territory.

III. Tribal Mobility Phase I.

1. Tribal Mobility Fund Phase I, Auction 902, will award one-time support to carriers that commit to provide 3G⁸ or better mobile voice and broadband services to Tribal lands that have been identified by the FCC that lack such services.⁹ Support will be allocated to maximize the population covered by new mobile services without exceeding the budget of 50 million dollars.

⁶ See Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, at 29, 498, 519-520.

⁷ See Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, at 28, 493-532.

⁸ The FCC has defined 3G service as at least 50kbps up and 200kbps down at vehicle speeds; 4G must be at least 200kbps up and 768kbps down at vehicle speeds.

⁹ USF/ICC Transformation Order, 26 FCC Rcd at 17818-23, Paras. 479-91.

2. The FCC has identified the applicable census tracts and census blocks within Tribal lands that lack service. Auction 902 will make the award of funds through reverse competitive bidding; the winning bidder complying with all requirements of an ETC and covering 75 percent or more of the population associated with the eligible blocks in each bidding area for which it receives funds.

IV. FCC Short-Form Application Requirements

In order to participate in Auction 902, an applicant must be designated as an ETC for the areas on which it wishes to bid for Tribal Mobility Fund Phase I support at the time it submits its Short Form Application.¹⁰ The FCC has identified census blocks and tracts in Idaho that are eligible for Tribal Mobility Fund Phase I support.¹¹ These eligible areas in Idaho include census blocks within Inland Cellular's ETC Area and census blocks that are outside Inland Cellular's ETC Area. In order for Inland Cellular to participate in Auction 902, it must have conditional ETC designation for the eligible census blocks outside its ETC Area. Accordingly, Inland Cellular seeks an Order from the Commission granting ETC designation for any areas outside Inland Cellular's ETC Area for which Inland Cellular wins Tribal Mobility Fund Phase I support.¹²

V. Inland Cellular Continues to Satisfy the Requirements for ETC Designation

As demonstrated herein, and as previously determined by the Commission,¹³ Inland Cellular meets the requirements for designation as an ETC as established under federal law,¹⁴

¹⁰ See Tribal Mobility Fund Phase I Auction Rescheduled for December 19, 2013; Notice and Filing Requirements and Other Procedures for Auction 902, *Public Notice*, AU Dockets No. 13-53; DA 13-1672, para. 107.

¹¹ See *Id.* at Attachment A-2.

¹² The Commission granted similar conditional ETC designation to T-Mobile West LLC ("Inland Cellular") in Order No. 3251, in Case No. TMW-T-10-01, so that T-Mobile could participate in FCC Auction 901 (Mobility Fund Phase I auction).

¹³ See 2006 Inland Cellular ETC Order.

¹⁴ 47 U.S.C. § 214(e)(1).

Federal Communications Commission (“FCC”) rules,¹⁵ and applicable Idaho requirements.¹⁶ In particular, Inland Cellular:

1. is a common carrier;¹⁷
2. will offer the services supported by federal universal service support mechanisms;¹⁸
3. will use its own facilities to provide the supported services;¹⁹
4. will provide the supported services throughout its designated service area;²⁰
5. will advertise the availability of its universal service offerings and charges for such offerings using media of general distribution;²¹
6. will make Lifeline service available to qualifying low-income consumers;²²
7. will meet the additional application requirements:
 - a) certify that it will comply with the service requirements applicable to the support that it receives;²³
 - b) be able to remain functional in emergency situations;²⁴
 - c) satisfy consumer protection and service quality standards;²⁵
 - e) provide local usage plans comparable to the incumbent local exchange carriers (ILECs) already operating in the proposed area;²⁶
 - f) provide notice to affected tribal governments or tribal regulatory authorities.²⁷

¹⁵ 47 C.F.R. § 54.201(d). In its *USF/ICC Transformation Order*, the FCC modified the required supported services in 47 C.F.R. § 54.101 and the additional requirements for designation as an ETC in 47 C.F.R. § 54.202.

¹⁶ See *In the Matter of the Application of WWC Holding Co., Inc. dba CellularOne Seeking Designation as an Eligible Telecommunications Carrier That May Receive Federal Universal Service Support*, Order No. 29841, Appendix pp. 1-3 (IPUC Case No. WST-T-05-1, served August 4, 2005) (“IPUC ETC Requirements Order”).

¹⁷ 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

¹⁸ 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. §§ 54.201(d)(1) and 54.405.

¹⁹ 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1).

²⁰ 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

²¹ 47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2).

²² 47 C.F.R. § 54.405; see also *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 11-42, FCC 12-11, released February 6, 2012 (“*Lifeline Reform Order*”). The FCC adopted comprehensive reforms to the federal low-income program, including steps to limit fraud, waste and abuse within the program.

²³ 47 C.F.R. § 54.202 (a)(1)(i).

²⁴ 47 C.F.R. § 54.202(a)(2); IPUC ETC Requirements Order, App., at 3.

²⁵ 47 C.F.R. § 54.202(a)(3); IPUC ETC Requirements Order, App., at 3.

²⁶ IPUC ETC Requirements Order, App., at 3. In the *USF/ICC Reform Order*, the FCC eliminated the additional requirement of offering local usage, but Inland Cellular will continue to meet this requirement to the extent it is still required to do so in Idaho.

8. will comply with all applicable reporting requirements²⁸

Furthermore, Inland Cellular's conditional designation as an ETC serves the public interest by expanding the availability of next generation networks, if Inland Cellular receives Mobility Fund Phase I support, which will increase customer choice and service availability and make available to consumers new service offerings, including wireless broadband and Lifeline services.²⁹

Therefore, in granting the additional conditional ETC designations requested in this Petition, the Commission will further advance the public interest by permitting Inland Cellular to participate in Auction 902 and thereby, if it is the successful bidder, allow Inland Cellular to bring enhanced service offerings and broadband wireless and Lifeline services to unserved Tribal areas where it is licensed to provide service.

VI. Inland Cellular Meets the Additional Requirements for Designation as an ETC

1. Certify Compliance With Applicable Service Requirements

Inland Cellular will serve all consumers within its ETC service area, and certifies that it will comply with the service requirements applicable to the support that it receives, consistent with 47 C.F.R. § 54.202(a)(1)(i).

2. Ability to Function in Emergency Situations

Inland Cellular has the "ability to remain functional in emergency situations."³⁰ Inland Cellular has a reasonable amount of back-up power to ensure functionality without an external power source, is able to re-route traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

²⁷ *Id.* at 2.

²⁸ See IPUC ETC Requirements Order, App., at 3-4.

²⁹ 47 U.S.C. § 214(e)(2).

³⁰ 47 C.F.R. § 54.202(a)(2); IPUC ETC Requirements Order, App., at 3; 2006 Inland Cellular ETC Order at 10.

3. Consumer Protection and Service Quality Standards

Inland Cellular will satisfy applicable consumer protection and service quality standards in accordance with 47 C.F.R. § 54.202(a)(3) and the IPUC ETC Requirements Order.³¹ Inland Cellular is a strong supporter of and abides by the CTIA-The Wireless Association's® Consumer Code for Wireless Service ("Consumer Code").

4. Comparable Local Usage

Inland Cellular's service offerings are comparable to the offerings of the ILECs, taking into consideration all of the attributes of its and the ILECs' service offerings.³² In the 2006 Inland Cellular ETC Order, the Commission concluded that Inland Cellular satisfies this requirement.³³

5. Make Available Lifeline Service To Eligible Low-Income Consumers

Upon designation as an ETC and receipt of Tribal Mobility Fund Phase I support, Inland Cellular will make available to qualified low-income consumers a discounted service offering that meets all applicable Lifeline requirements.

VII. Designating Inland Cellular As an ETC Is In the Public Interest

Inland Cellular meets all of the requirements for designation as an ETC by providing the supported services, committing to serve all consumers throughout its designated service area, offering a Lifeline service consistent with all applicable requirements, advertising the availability of its universal service offerings, and furthering the goals of the universal service program. Moreover, conditional designation of Inland Cellular as an ETC for census blocks outside its existing ETC Area is in the public interest because, if Inland Cellular is successful in obtaining

³¹ See IPUC ETC Requirements Order, App., at 3.

³² In its *USF/ICC Transformation Order*, the FCC eliminated the requirement to offer local usage comparable to the ILEC offerings. Nevertheless, to the extent it is still required, Inland Cellular will comply.

³³ 2006 Inland Cellular ETC Order at 10-11.

Tribal Mobility Fund Phase I support, Tribal consumers will benefit from competitive pricing, new services, a higher level of service quality, and great customer service.

Granting Inland Cellular conditional ETC designation for census blocks outside its existing ETC Area will allow Inland Cellular to participate in the FCC's Auction 902 and bid to serve portions of Idaho Tribal lands that currently do not have access to 3G or better mobile wireless services. Idaho Tribal consumers will benefit if Inland Cellular is successful in winning support from the FCC's Mobility Fund. This will lead to: (i) customer choice for basic and advanced communications needs; (ii) new service offerings with competitive pricing, services, and features; and (iii) construction and operation of telecommunications facilities and services in unserved Tribal areas of the state to deploy 3G or better networks.

The benefits of competition are widely recognized and extend to all markets, as recognized by the FCC:

We note that an important goal of the Act is to open local telecommunications markets to competition. Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies. We agree with Western Wireless that competition will result not only in the deployment of new facilities and technologies, but will also provide an incentive to the incumbent rural telephone companies to improve their existing network to remain competitive, resulting in improved service to Wyoming consumers [consumers in the proposed ETC service area]. In addition, we find that the provision of competitive service will facilitate universal service to the benefit of consumers in Wyoming by creating incentives to ensure that quality services are available at "just, reasonable, and affordable rates."³⁴

If Inland Cellular obtains Tribal Mobility Fund Phase I support, Inland Cellular's conditional designation as an ETC for census blocks outside its existing ETC Area will result in

³⁴*In the Matter of the Federal-State Joint Commission on Universal Service, Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 00-2896, ¶ 17 (released December 26, 2000).

Tribal consumers having greater access to wireless telecommunications services, thereby advancing the basic goal of preserving and advancing universal service. Congress established a competitive universal service framework to expand the level of competition among carriers vying for the business of consumers based on price, service offerings, coverage, and service quality. Inland Cellular offers consumers competitive service offerings and high-quality customer service, and through its potential entry into additional universal service markets, more Idaho Tribal consumers may now have greater access to all of these benefits. The wireless service that Inland Cellular offers will provide these additional Tribal customers with an affordable alternative to traditional telecommunications service.

VIII. Conclusion

1. The Commission has designated Washington RSA No. 8 Limited Partnership (*d/b/a* Inland Cellular) as an ETC in non-rural wire centers. With the changes in Universal Service Support, Inland Cellular now requests that the Commission:

- A) Acknowledge the name change to Inland Cellular LLC (*d/b/a* Inland Cellular) (SAC 479007) (formerly Washington RSA No. 8 Limited Partnership);
- B) Designate Inland Cellular as an ETC in areas outside its existing ETC Area conditional upon Inland Cellular winning support from the Tribal Mobile Fund Phase I auction, such that Inland Cellular shall be deemed an ETC outside of its existing ETC Area only in the areas in which it is awarded Tribal Mobility Fund Phase I support;

- C) Send the appropriate notice of the Order designating Inland Cellular as an ETC for census tracts and/or census blocks outside its existing ETC Area to the FCC and Universal Service Administrative Company; and,
- D) Order such other relief as may be appropriate.

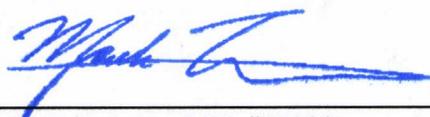
2. Inland Cellular respectfully requests that the Commission issue the requested relief on an expedited basis. With the short forms for the Tribal Mobility Fund Phase I Auction due to the FCC by October 9, 2013 (uncertain whether this will be delayed with the Federal Government shut-down), Inland Cellular requests expedited treatment of this Petition.

Dated this 3rd day of October, 2013.

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

By: _____


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Attorneys for Inland Cellular LLC

CERTIFICATE OF SERVICE

I hereby certify that, on October 3, 2013, I caused to be served, via the method(s) indicated below, true and correct copies of the foregoing document upon:

Ms. Jean Jewel, Executive Secretary Idaho Public Utilities Commission 472 W. Washington Street Post Office Box 83720 Boise, Idaho 83702	Hand Delivered <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Fax <input type="checkbox"/> UPS <input checked="" type="checkbox"/> Email <input checked="" type="checkbox"/>
Nez Perce Tribal Executive Committee Silas C. Whitman, Chairman Post Office Box 305 Lapwai, Idaho 83540	Hand Delivered <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> UPS <input type="checkbox"/> Email <input type="checkbox"/>
Frontier Communications Northwest, Inc. Carl Gipson, Director-State Gov. Relations 1800 41 st Street WA0105RA Everett, Washington 98206	Hand Delivered <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> UPS <input type="checkbox"/> Email <input type="checkbox"/>
The Coeur d'Alene Tribe Chief J. Allen, Tribal Chairman 850 A Street Post Office Box 408 Plummer, Idaho 83851	Hand Delivered <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> UPS <input type="checkbox"/> Email <input type="checkbox"/>
Inland Telephone Company Douglas Weis, President Post Office Box 171 Roslyn, Washington 98941	Hand Delivered <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> UPS <input type="checkbox"/> Email <input type="checkbox"/>



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