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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
INLAND CELLULAR LLC FOR CONDITIONAL)	CASE NO. INC-T-13-01
EXPANSION OF ITS DESIGNATION AS AN)	
ELIGIBLE TELECOMMUNICATIONS)	COMMENTS OF THE
CARRIER.)	COMMISSION STAFF
)	
)	

COMES NOW the Staff of the Idaho Public Utilities Commission (Commission), by and through its attorney of record, Neil Price, Deputy Attorney General, and in response to the Notice of Application and Notice of Modified Procedure issued in Order No. 32909 on October 17, 2013 in Case No. INC-T-13-01, submits the following comments.

BACKGROUND

On October 4, 2013, Inland Cellular LLC (“Inland” or “Company”), a subsidiary of Inland Cellular Telephone Corporation (“ICTC”), filed an Application for conditional expansion of its ETC status in Idaho. The Commission previously granted ETC status to ICTC in Order No. 30212. Inland requests that the Commission grant a conditional expansion of Inland’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”).¹

Overview of the Tribal Mobility Fund, Phase 1² (Auction 902)

On November 19, 2011, the Federal Communications Commission (FCC) released the *Report and Order and Further Notice of Proposed Rulemaking (USF/ICC Transformation Order)* that established the Tribal Mobility Fund to provide service to Tribal lands that have historically had less access than other segments of the population.³ The FCC defines Tribal lands as any federally recognized Indian tribe’s reservation, pueblo, or colony.⁴

On August 7, 2013, FCC issued DA 13-1672 to establish the procedures, terms, and conditions that will apply to the reverse auction that will award up to \$50 million in one-time Tribal Mobility Fund Phase 1 support (Auction 902). The Summary of Idaho’s Eligible Census Blocks for Auction 902 is provided below.

Census Block Information for Idaho⁵

Number of Eligible Blocks	334
Number of Tribal Lands with Eligible Blocks	4
Number of Counties with Eligible Blocks	8
Number of Bidding Areas	9
Total Population of Eligible Blocks	3,416
Total Area (square feet) of Eligible Blocks	320.40
Total Road Miles of Eligible Blocks	700.64

To participate in Auction 902 and receive monetary support, all Connect American Fund (CAF) recipients, including Tribal Mobility Fund Phase 1 recipients, must meet certain public interest obligations described below.

¹ Application at 1.

² Connect America Fund, WC Docket No. 10-90.

³ *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161, ¶479 and 481 (*USF/ICC Transformation Order*).

⁴ *Id.* p. 48, fn. 197.

⁵ Public Notice DA 13-1762, Attachment A-1, released August 7, 2013.

Tribal Mobility Fund Phase 1 Public Interest Obligations

1. Voice and Broadband Service. Offer stand-alone voice service to the public with coverage of at least 75 percent or more of the population within the area for which support is provided.⁶

2. Data Rates. On a 3G network, commit to provide outdoor minimum data transmission rates of 50 kilobits per second (Kbps) uplink and 200 kbps downlink at vehicle speed appropriate for the areas covered. On a 4G network commit to provide outdoor minimum data transmission rates of 200 kbps uplink and 768 kbps downlink at vehicle speeds appropriate for the area covered. The transmission latency for both 3G and 4G networks must be low enough to enable the use of real-time applications.⁷

3. Performance Deadlines. Commit to provide service over either a 3G or a 4G network for at least 75 percent or more of the population within the area for which the carrier receives funds. Carriers of 3G networks must do so within two years of being authorized to receive support and 4G carriers must do so within three years of being authorized to receive support. If a carrier provides coverage in excess of the minimum population, support will be made available for up to 100 percent of the eligible population.⁸

4. Reasonable Comparable Rates. Certify annually, for at least five years after the date of the award, that service offerings rates in supported areas are within a reasonable range of rates for similar service plans offered by mobile wireless providers in urban areas.⁹

5. Collocation. Allow for reasonable collocation by other providers of services that would meet the voice and data requirements of Tribal Mobility Fund Phase 1 on newly-constructed towers (owned or managed) by the recipient in the area for which it receives support.¹⁰

6. Voice and Data Roaming. Must provide voice and data roaming on networks built with the support, consistent with the requirements of Section 20.12 of the FCC Rules.¹¹

⁶ *Id.* ¶37.

⁷ *Id.* ¶8.

⁸ *Id.* ¶39.

⁹ *Id.* ¶40.

¹⁰ *Id.* ¶41.

¹¹ *Id.* ¶42.

Tribal Mobility Fund Phase 1 Eligibility Requirements

1. ETC Designation. Carriers must be designated as an ETC pursuant to Section 214 of the Communications Act in any geographic area for which it seeks support.¹²

2. Access to Spectrum Description and Certification. Carrier must possess the necessary spectrum to fulfill any obligations related to support.¹³

3. Financial and Technical Capability Certification. Carrier must certify that it is financially and technically capable of providing 3G or better service within the specified timeframe in the geographic areas for which it seeks support.¹⁴

4. Certification that Applicant Will Not Seek Support for Areas in Which It Has Made a Public Commitment to Deploy 3G or Better Service by December 31, 2012. This requirement conserves the fund and helps to assure that Tribal Mobility Fund Phase I support will not go to finance coverage that carriers would have provided in the near term without any subsidy.¹⁵

Following the resumption of normal federal government operations, on October 30, 2013, the FCC released Public Notice DA 13-2057, with a revised schedule for the Tribal Mobility Fund Phase 1, 902 Auction. The new dates and deadlines that apply to Auction 902 are as follows:

Revised Auction Tutorial Available (via Internet)	November 18, 2013
Short-form Application Filing Window Reopens	November 18, 2013
Short-Form Application Filing Window Deadline	December 5, 2013
Mock Auction	February 21, 2014
Auction	February 25, 2014

The Application

Inland is a Washington corporation, authorized to do business in the State of Idaho, with its business offices located in Roslyn, Washington.¹⁶ In Case No. INC-T-13-01, the Commission designated Inland as an ETC for the Washington RSA No. 8 Limited Partnership (WA8LP) dba Inland Cellular. In December 2012, Inland purchased the remaining limited partnership interest

¹² *Id.* ¶103.

¹³ *Id.* ¶109.

¹⁴ *Id.* ¶113.

¹⁵ *Id.* ¶114.

¹⁶ Application at 2.

in WA8LP. ICTC formed a subsidiary called Inland Cellular LLC (dba Inland Cellular) and the FCC transferred the cellular licenses for WA8LP to Inland Cellular LLC.¹⁷

Inland states that 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. Inland notes that the deadline for Short Form Applications was scheduled for October 9, 2013. However, subsequent conversations with representatives of the Company revealed that the Company believes this deadline will be pushed back due to the current “federal government shutdown.”

Inland states that the FCC’s Auction 902 will award one-time support to carriers that commit to provide 3G or better mobile voice and broadband services to Tribal lands, specific census tracts and census blocks, that have been identified by the FCC as lacking such services. Support will be allocated to maximize the population covered by new mobile services.

Inland states that it continues to meet the minimum eligibility requirements for designation as an ETC in Idaho including, but not limited to: common carrier status; offers services supported by federal universal service support mechanisms; utilizes its own facilities to provide the supported services; provides the supported services throughout its designated service area; advertises the availability of its universal service offerings and charges for such offerings using media of general distribution; makes Lifeline service available to qualifying low-income consumers; and meets additional application requirements as required.

The eligible areas in Idaho include census blocks within Inland’s ETC area and census blocks that are outside the Company’s ETC area. Inland seeks an Order from the Commission granting ETC designation for any areas outside Inland’s ETC area for which Inland wins Tribal Mobility Fund Phase I support.¹⁸ Inland believes that granting its Application for conditional expansion of its ETC service area to include census blocks outside its existing ETC area is in the public interest. Inland asserts that Tribal Mobility Fund Phase I support will allow the Company to provide Tribal consumers with competitive pricing, new services, and a higher level of service quality and customer service.

Inland requests that the Commission: A) Acknowledge the name change to Inland Cellular LLC dba Inland Cellular under SAC 479007 (formally Washington RSA No. 8 limited

¹⁷ *Id.*

¹⁸ *Id.* at 4.

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 1 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.

STAFF ANALYSIS

Staff has reviewed the Inland Applications and analyzed the Company's fulfillment of 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.1003, Order No. 29841 and the Auction 902 requirements. In addition, Staff has analyzed the public interest benefits of awarding the Company a conditional ETC designation to the Company.

Inland seeks ETC designation conditioned upon the Company winning support from the Tribal Mobility Fund Phase I auction, as outlined in the FCC's USF/ICC Transformation Order and the Public Notice DA 13-1672. Inland does not seek additional ETC designation if the Company does not receive funds from the Auction 902.

Public Interest Analysis

Under Section 213 of the Telecommunications Act of 1996, individual state Commissions must determine that an ETC designation is consistent with the public interest, convenience and necessity.¹⁹ The Tribal Mobility Fund Phase I recipients must offer voice coverage of at least 75 percent or more of the designated population within the area where support is provided. Additionally, receipt of the Tribal Mobility Fund Phase I support is conditioned upon the recipient providing a minimum level of service over a network that achieves particular data rates under particular conditions on a 3G or better network.²⁰

Inland's Application for conditional ETC designation is outside of its current ETC service area and in under-served areas. As such, the public interest is a simple one. The fact that no other carriers serve these census blocks with a 3G or broadband network suggest that the public interest would be served if Inland is given the opportunity to deploy services to these areas.

¹⁹ 47 U.S.C. § 214(e)(2).

²⁰ Application at 3.

Other Public Interest Considerations

In applying the public interest test for an ETC designation, Staff reviews other public interest considerations discussed below:

1. Company Contribution to the Idaho Telephone Service Assistance Program (ITSAP). Staff verified that the Company is remitting ITSAP fees to the program Administrator.²¹

2. The Ability to Remain Functional in Emergency Situations. Inland states that it has the ability to remain functional in emergency situations. The Company claims that it has 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.²²

For the foregoing reasons, Staff believes Inland satisfies the public interest analysis.

Other ETC Designation Requirements

Additional requirements for ETC designation are detailed in Appendix 1 of Order No. 29841 and discussed more fully below:

1. Common Carrier Status. Inland is a Commercial Mobile Radio Services (CMRS) carrier providing “mobile service” as defined in 47 U.S.C. § 153(27).²³

2. Provision of Universal Service. Inland offers the federally designated services listed at 47 U.S.C. § 54.10(a).²⁴

3. Advertising. Inland will advertise the availability and pricing of its universal service offering.²⁵

4. The Commitment and Ability to Provide Supported Service. Inland commits to provide all of the supported services throughout its designated service area as required.²⁶

5. Commitment to Consumer Protection and Service. Inland will satisfy applicable consumer protection and service quality standards in accordance with 47 C.F.R, § 54.202(a)(1)(i) and the IPUC ETC Requirements Order.²⁷

²¹ 2012 ITSAP Annual Report, *Confidential* Monthly Report.

²² Application at 6.

²³ *Id.* at 5.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 7.

6. Description of the Local Usage Plan. Inland's service offering are comparable to the offerings of the incumbent local exchange carrier (ILEC), taking into consideration all of the attributes of its and the ILECs' service offering.²⁸

7. Tribal Notification. Inland will comply with this requirement. Inland submitted a copy of its Application to the Coeur d'Alene and the Nez Perce Tribes of Idaho.²⁹

STAFF RECOMMENDATION

Staff has reviewed Inland's Application for conditional designation as an ETC for areas outside of its existing ETC area for the purpose of participating in the Tribal Mobility Fund Phase 1 or Auction 902 and only in the areas in which it is awarded Tribal Mobility Fund support.

Staff believes that Inland possesses the requisite financial and managerial requirements skills necessary to operate as an ETC. Finally, Staff believes Inland's Application for conditional ETC designation in the unserved census blocks in Idaho is in the public interest and recommends approval of the Application.

Respectfully submitted this 7th day of November 2013.



Neil Price
Deputy Attorney General

Technical Staff: Grace Seaman

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²⁸ *Id.*

²⁹ *Id.* Certificate of Service.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 7th DAY OF NOVEMBER 2013, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. INC-T-13-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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CERTIFICATE OF SERVICE