

**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

In the matter of:

APPLICATION OF INTER MOUNTAIN CABLE,)	
INC. FOR DESIGNATION AS AN ELIGIBLE)	Case No. 2023-00289
TELECOMMUNICATIONS CARRIER)	
IN THE COMMONWEALTH OF)	
<u>KENTUCKY</u>)	

**APPLICATION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER FOR PURPOSES OF OFFERING LIFELINE SERVICE ONLY IN THE
COMMONWEALTH OF KENTUCKY**

I. REQUEST FOR ETC DESIGNATION

Inter Mountain Cable, Inc. d/b/a MTS Communications (“IMC” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934 (the “Act”), Sections 54.400 through 54.423 of the rules of the Federal Communications Commission (“FCC”), and the rules and regulations of the Kentucky Public Service Commission (“Commission”), hereby files this application for Eligible Telecommunications Carrier (“ETC”) designation for the limited purpose of providing federal and Kentucky Universal Service Fund (“USF”) Lifeline benefits to eligible customers in the areas requested in the Commonwealth of Kentucky.

II. INTRO AND SUMMARY

1. IMC is a for-profit Kentucky corporation, facilities-based carrier, with its principal office in Harold, Kentucky. It registered with the Office of the Secretary of State on December 13, 1965, and is in good standing. The Company is one of a group of companies operating in association with Gearheart Communications Company, Inc. (“Gearheart

Communications”), including Coalfields Telephone Company, an incumbent rural carrier and ETC providing service in Harold, Wheelwright, and Grethel, KY.

2. As discussed in greater detail below, the Commission has the authority to grant ETC designation status to IMC pursuant to Section 214(e)(2) of the Act. The Company meets all statutory and regulatory requirements for ETC designation. Designating the Company as a Lifeline-only ETC throughout the areas it proposes to serve will allow the Company to provide federal and Kentucky Lifeline subsidies to eligible low-income customers. The Company acknowledges its obligation to collect the Kentucky USF surcharge prescribed by the Commission.

3. All correspondence, communications, pleadings, notices, orders, and decisions relating to this Petition should be sent to:

Heather M. Gearheart, J.D., Counselor, Director,
Gearheart Communications, Inc.
P.O. Box 160
Harold, Kentucky 41635
606-479-6260
Email: heather@gearheart.com

4. IMC has the ability to provide all services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the FCC’s rules. The Company’s Lifeline service offering will provide customers with the same features and functionalities enjoyed by the Company’s other customers.

III. PROPOSED SERVICE AREA

IMC seeks ETC designation for purposes of providing Lifeline services in LATA 466 in Floyd, Letcher, and Pike Counties, and a portion of Johnson County, where it is already a competitive provider of service. Grant of this Petition is in the public interest because it will

allow IMC to bring high quality competitive services to subscribers, including those eligible for Lifeline services, in the communities in which it seeks ETC designation.

IV. THE COMMISSION HAS JURISDICTION TO DESIGNATE ETCs

1. The Commission has the requisite authority to carry out the ETC designation requested by the Company. Section 214(e)(2) of the Act provides state public utility commissions with the primary responsibility for the designation of ETCs. Pursuant to this authority, the Commission has historically participated in determining whether to grant ETC status to an applying carrier.

2. Under the Act, a state public utility commission with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of Section 214(e)(1) of the Act. As shown in this Petition, IMC will meet all requirements of Section 214 of the Act, warranting its designation as a Lifeline-only ETC to participate in the federal Lifeline and Kentucky USF Lifeline programs.

3. The company has deployed or will deploy its own facilities to the exchanges in which it seeks ETC designation and will serve customers in those exchanges that are on its network.

4. IMC is one of the few facilities-based providers of voice and broadband services in several of the exchanges in which it is seeking ETC designation. While the Company has been successfully providing federally subsidized services under the Affordable Connectivity Program, and before that, the Emergency Broadband Program, several of its target exchanges are economically disadvantaged and the residents are more likely to also be Lifeline eligible. Accordingly, IMC's lack of state and federal Lifeline support is a barrier to selecting IMC as a service provider.

5. IMC will have sufficient facilities and capacity to provide supported services throughout its service area in Kentucky.

V. IMC MEETS THE STATUTORY AND REGULATORY PREREQUISITES TO BE DESIGNATED AS A LIFELINE-ONLY ETC

As demonstrated in this Petition, the Company satisfies each of the statutory and regulatory requirements set forth in the Act and the Commission's rules to be a Lifeline-only ETC.

1. The Company Will Provide Service as a Common Carrier. IMC will provide its services on a common carrier basis. As such, the Company certifies that it is a common carrier under Sections 214(e)(1) and 214(e)(2) of the Act.

2. The Company Will Provide All Required Services and Functionalities. IMC is able to provide all of the services and functionalities required by Sections 54.101(a) and 54.202(a) of the FCC's Rules and as an ETC must provide minutes of use for local service at no additional charge to end-users. The Company provides voice grade access to the public switched telephone network ("PSTN") that includes local service usage at no additional charge.

3. The Company provides 911 and E911 access for all of its customers to the extent the local governments in the Company's Proposed Service Area have implemented 911 or E911 systems.

4. The Company Will Advertise the Availability and Rates of Its Services Using Media of General Distribution. IMC will continue to advertise the availability and rates for its services described in Section IV.G., infra, using media of general distribution as required by Section 54.201(d)(2) of the FCC's rules and the rules adopted by the Commission, and in accordance with the requirements set forth in the applicable FCC rules and orders. The Company will advertise its services in a manner reasonably designed to reach those consumers likely to

qualify for Lifeline service, using media for outreach that may include newspapers, direct mail, event representation, radio, billboards, and the Internet.

5. IMC will engage in advertising campaigns specifically targeted to reach those consumers likely to qualify for Lifeline service, promoting the availability of cost-effective services to those potential customers. The Company may also promote the availability of its Lifeline offering by distributing brochures at various state and local social service agencies, and may partner with non-profit assistance organizations in order to inform customers of the availability of its Lifeline service.

6. Ability to Remain Functional in Emergencies. In accordance with Section 54.202(a)(2) of the FCC's rules, IMC has the ability to remain functional in emergency situations. The Company will provide its customers the ability to remain functional in emergency situations, including access to a reasonable amount of back-up power to ensure functionality without an external power source, the ability to re-route traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

7. Consumer Protection and Service Quality. Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards. IMC commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. The Company notes that its affiliate, Coalfields Telephone Company, is already fully compliant with these requirements and IMC intends to adopt the procedures for meeting these standards that have already been successfully implemented by its affiliate.

5. The Company Possesses the Financial and Technical Capability to Provide the Supported Services. IMC has been providing facilities-based video, internet, and voice services

to consumers in Kentucky since beginning its operations in 1965. In 2001, IMC began operating as a competitive local exchange carrier through a combination of resold and its own facilities and now services and provides service for approximately 25,000 households in parts of 6 counties in Kentucky, Mingo County, West Virginia and Buchanan County, Virginia.

8. IMC's affiliate, Gearheart Communications, has been an incumbent provider of local exchange service since 1953. Coalfields Telephone now provides service to 3,800 land-line telephones and DSL in parts of Pike and Floyd County, Kentucky.

9. IMC has a solid and longstanding record of business success providing cable and other communications services in Kentucky. In addition, as part of the Gearheart Communications family of companies, the Company has a sound financial base that will ensure its success in operating as a Lifeline-only ETC in Kentucky. Further, IMC's experience in providing a variety of communications services demonstrates that it has the technical capability to ensure the high quality and reliability of service provided to Lifeline customers.

10. IMC's Proposed Lifeline Offering. The Company will make available to its Lifeline subscribers any service that meets or exceeds the then in effect standards for voice and / or broadband service¹.

11. Voice services whether combined with broadband or purchased on a standalone basis will be eligible for the \$3.50 in KY Lifeline Support. Federal support will apply based on whether the subscriber has standalone voice or a qualifying broadband service, currently set at \$5.25 or \$9.25, respectively.

¹ All of the Company's voice services meet FCC-designated voice criteria. Those few broadband packages that fail to meet FCC minimum speeds will remain available to Lifeline subscribers who subscribe to voice services, but without the federal broadband Lifeline subsidy.

12. The Company lists all available services at [Pricing - Gearheart TV \(mygtv.com\)](#). Any service offering or bundle that meets the criteria for federal Lifeline eligibility will be available to those subscribers who qualify for Lifeline.

13. Verification of Subscriber Eligibility. IMC will determine eligibility of Lifeline subscribers in accordance with Section 54.410 of the FCC's rules, utilizing the streamlined eligibility criteria implemented by the FCC in the Lifeline Modernization Order. The FCC has taken steps to curb abuse in the Lifeline program by establishing the National Lifeline Eligibility Verifier (the "National Verifier"), which, inter alia, relieves Lifeline providers of the responsibility to make eligibility determinations.

14. IMC will rely on the National Verifier to determine initial eligibility and the Universal Service Administration Company ("USAC") to annually recertify the eligibility of its Kentucky Lifeline subscribers. Pursuant to the rules for the program, it shall promptly de-enroll those subscribers who fail to recertify their eligibility with USAC. Because the National Verifier queries the National Lifeline Accountability Database for every enrollment to determine whether a prospective subscriber is currently receiving a Lifeline service from the Company or any other ETC, and whether anyone else living at the prospective subscriber's residential address is currently receiving Lifeline service, the Company complies with the requirements of Section 54.404 of the FCC's rules.

15. The Company's Policies Concerning Non-Usage of Its Lifeline Service. For those customers who subscribe to a Lifeline service that does not require IMC to assess and collect a monthly fee from its subscribers, IMC will establish and enforce a non-usage policy in compliance with applicable FCC requirements. The Company will not seek any federal USF

reimbursement for inactive subscribers and will de-enroll any subscriber who has not used the Company's Lifeline service as set forth in Section 54.407(c)(2) of the FCC's rules.

16. Pursuant to 54.201(d)(1) IMC states that it will provide supported services using IMC's network infrastructure, consisting of switching, trunking, and network equipment, together with any expansions and enhancements to that network. IMC will have the ability and willingness to provide service throughout its service area. IMC uses its own facilities for last mile connections with its subscribers. Its lease of facilities provided by other wireline carriers is limited to the connection of its switch in Harold with the public switched telephone network for the exchange of local and toll traffic. Specifically, IMC uses its own wholly-owned inter-office network facilities as well as those leased from Gearheart Communications, and its affiliate, East Kentucky Network, for traffic exchange in LATA 466, as well as third party facilities used for toll and international calling, collocation services, and network diversity. The company further anticipates using facilities of other affiliated entities as the opportunity to further diversify its network become available.

VI. DESIGNATING IMC AS AN ETC WILL ADVANCE THE PUBLIC INTEREST

IMC seeks ETC Lifeline-only designation are in the exchanges served by Windstream and AT&T of Kentucky in Floyd, Letcher, Pike and Johnson Counties. While those counties are also served by two rural Incumbent Telephone Exchange Carriers (ILECs)² IMC does not intend to provide service in areas served by Rural ILECs, a and therefor a finding of advancing the public interest is not required³. Accordingly, designation of IMC as a Lifeline-only ETC would allow IMC to provide access to Lifeline support on an equitable basis with providers in the counties it seeks to serve.

² The Company's affiliate, Coalfields Telephone Company, serves portions of Pike and Floyd Counties and Foothills Rural Telephone Cooperative provides service in Johnson County.

³ 47 USC §54.201(c)

VII. ADDITIONAL REQUIREMENTS

Pursuant to §54.202(a)(1)(i) an affidavit supporting that IMC will comply with the service requirements applicable to the support that it receives in provided in **Exhibit A** of this Application.

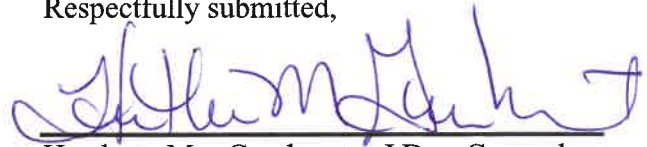
VIII. ANTI-DRUG ABUSE CERTIFICATION

IMC certifies that no party to this Petition is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, and Sections 1.2001-1.2003 of the Federal Communications Commission’s rules, 47 C.F.R. §§ 1.2001-1.2003. See Exhibit A.

IX. CONCLUSION

WHEREFORE, for the reasons set forth above, IMC respectfully requests that the Commission issue an order as soon as is practicable designating IMC as an Eligible Telecommunications Carrier for purposes of receiving Lifeline Support throughout the service areas identified in this Application.

Respectfully submitted,



Heather M. Gearheart, J.D., Counselor,
Director
Gearheart Communications, Inc.
P.O. Box 160
Harold, Kentucky 41635
606-479-6260
Email: heather@gearheart.com


EXHIBIT A

Declaration of James O. Campbell

Declaration of James O. Campbell

Pursuant to 47 C.F.R. § 1.16, I, James O. Campbell, do declare under penalty of perjury the following is true and correct.

1. I am James O. Campbell, CFO for Inter-Mountain Cable, Inc. ("IMC"). The foregoing "Petition of Inter-Mountain Cable, Inc. for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky" has been prepared under my direction, supervision and control. The factual statements and representations contained therein are true and accurate to the best of my knowledge and belief.
2. IMC intends to obtain low-income universal service support funding upon receipt of ETC designation and will use federal universal support only for the provision, maintenance and upgrading of facilities and services for which the support is necessary consistent with Section 254 (e) of the Telecommunications Act of 1996. As an ETC, IMC will offer a reduced-rate universal service package to subscribers who are eligible for Lifeline support. IMC's service offerings will be competitive with the ILECs.
3. IMC will be capable of providing all of the service offerings required by and set forth in Section 214 (e) of the Communications Act of 1934, as amended, for "eligible telecommunications carriers."
4. Anti-Drug Abuse Certification: To the best of my knowledge, the applicant referred to in the foregoing Petition, including all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant as specified by Section 1.2002 (b) of the Federal Communications Commission's rules, are not subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.



 James O. Campbell, CFO
 Inter-Mountain Cable, Inc.

COUNTY OF Floyd)
)
 STATE OF KENTUCKY)

Subscribed and sworn to before me by James O. Campbell on this 28th day of August, 2023.

NOTARY PUBLIC

Name Elizabeth Ann Howell
 Signature Elizabeth Ann Howell
 Commission expiration 9-20-2025