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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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<b>Petition Of Commnet Four Corners, LLC For Designation As An Eligible Telecommunications Carrier For Purposes of Receiving CAF Phase II Support</b>	Docket No. 18-_____
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**PETITION OF COMMNET FOUR CORNERS, LLC FOR DESIGNATION AS AN  
ELIGIBLE TELECOMMUNICATIONS CARRIER FOR PURPOSES OF RECEIVING  
CAF PHASE II SUPPORT AND REQUEST FOR EXPEDITED CONSIDERATION**

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Pursuant to Section 214(e)(2) of the Communications Act, as amended,<sup>1</sup> and the relevant provisions of the Utah Public Service Commission’s rules, Commnet Four Corners, LLC (“Commnet”) respectfully requests designation as an Eligible Telecommunications Carrier (“ETC”) in the state of Utah.<sup>2</sup> Specifically, Commnet seeks ETC designation in the areas for which it has been awarded Connect America Fund (“CAF”) Phase II support via Auction 903. On August 28,

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<sup>1</sup> 47 U.S.C. § 214(e)(2).

<sup>2</sup> Pursuant to 47 U.S.C. § 214(e)(1), an ETC provides services supported by Federal universal service support mechanisms throughout their identified service area and is eligible to receive universal service support funds.

2018, the Federal Communications Commission (“FCC”) issued a Public Notice closing the Auction and announcing the winning bidders.<sup>3</sup> Commnet is obligated to obtain this ETC designation within 180 days of that Public Notice and, therefore, requests expeditious action to conform to this requirement.<sup>4</sup>

## I. INTRODUCTION AND SUMMARY

Commnet is a wholly-owned subsidiary of ATN International, Inc., a publicly traded corporation headquartered in Beverly, Massachusetts, and licensed by the FCC as a facilities based provider of CMRS and provides those services in principally rural areas.<sup>5</sup> It focuses principally on areas with a population of 2,500 or less. Its coverage footprint includes several Native American reservations and in some cases is the only wireless communications provider in those areas. Commnet operates facilities based networks in 14 states. Commnet provides mobile voice and broadband services as well as fixed broadband services over those facilities on both a wholesale and retail basis. Commnet is presently designated and operates as an ETC in certain areas of Colorado, Montana, New Mexico and Nevada.<sup>6</sup> As the Winning Bidder in the CAF Phase II Auction, Commnet will be filing similar Petitions, seeking ETC designations, in the states of Arizona, Colorado, Nevada, New Mexico and Wyoming.

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<sup>3</sup> *Connect America Fund Phase II Auction (Auction 903) Closes, Winning Bidders Announced, FCC Form 683 Due October 15, 2018*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, DA 18-887, August 28, 2018 (“Auction Closing Public Notice”) attached hereto as Exhibit 3.

<sup>4</sup> Commnet is required to secure the ETC designation no later than February 25, 2019. Furthermore, Commnet will not be eligible to receive support until its long form is approved and the long form will be deemed incomplete until the ETC designation is in place. *Auction Closing Public Notice para 16*.

<sup>5</sup> Specifically, Commnet is a wholly-owned subsidiary of Commnet Wireless, LLC, which itself is a wholly-owned subsidiary of Atlantic Tele-Network, Inc.

<sup>6</sup> Commnet’s affiliate NTUA Wireless, LLC provides these services on the Navajo Nation which spans across parts of Arizona, New Mexico and Utah. NTUA Wireless, LLC has received ETC designation by the FCC to provide Lifeline service and for eligibility to participate in Tribal Mobility Fund I.

The contact information for Applicant is as follows:

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As discussed in more detail below, the Commission has the authority to grant Commnet ETC designation pursuant to Section 214(e)(2), and Commnet meets all of the statutory and regulatory requirements for such designation. Designating Commnet as an ETC for purposes of receiving CAF Phase II universal service funds will serve the public interest by allowing Commnet to receive support to serve the areas that it is obligated to serve, thereby expanding the number of new locations that will receive coverage for the finite budget available.

## **II. THE COMMISSION HAS AUTHORITY TO GRANT THE ETC DESIGNATION**

States are given authority by 47 U.S.C. § 214(e)(2) to designate a qualified carrier as an ETC. Specifically, Section 214(e)(2) authorizes a State commission to “designate a common carrier that meets the requirements” of an ETC “for a service area designated by the State commission.” This Commission has previously exercised its authority to designate qualified carriers as ETCs.<sup>7</sup> Commnet requests ETC designation in portions of Beaver and Kane Counties in the areas identified in Exhibits 1 and 2, attached hereto. Specifically, Commnet requests that the Commission exercise its authority under Section 214(e)(2) to designate the company as an ETC for purposes of receiving high cost universal service support from the Connect America Fund Phase II.

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<sup>7</sup> See, e.g., In the Matter of Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Limited Purpose of Offering Lifeline Service to Qualified Households, PSC Docket No. 09-2511-01.

Given the requirement that Commnet obtain ETC status within 180 days of the FCC's Public Notice,<sup>8</sup> Commnet further requests that this Commission set a scheduling conference without delay to allow all the Commission and interested parties sufficient time to review this Petition and for the Commission to issue an order on the Petition within that time.

### **III. COMMNET MEETS THE STATUTORY AND REGULATORY PREREQUISITES TO BE DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

As demonstrated herein, Commnet satisfies the requirements for designation as an ETC established under the statute<sup>9</sup> and FCC rules.<sup>10</sup>

#### **A. Commnet Will Provide Service as a Common Carrier**

Commnet is a commercial mobile radio service ("CMRS") provider licensed by the FCC and therefore regulated as and subject to the requirements applicable to a common carrier. Commnet is a common carrier and meets this requirement of ETC designation.<sup>11</sup>

#### **B. Commnet Offers the Services Supported by the Federal Universal Service Support Mechanisms**

Commnet offers the services required by the FCC for rural, insular and high cost areas that are supported by the universal service support mechanisms.<sup>12</sup> These required services include voice grade access to the public switched telephone network and broadband internet access. As discussed below, Commnet meets the requirement to provide these services.

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<sup>8</sup> Winning Bidders must submit to the FCC documentation showing that it has obtained a high-cost ETC designation by February 25, 2019. *See* Exhibit 3 (Auction Closing Public Notice), ¶ 16.

<sup>9</sup> 214(e)(1).

<sup>10</sup> 47 C.F.R. § 54.201(d).

<sup>11</sup> 47 C.F.R. § 20.9

<sup>12</sup> *See* 47 C.F.R. § 101

### Voice Grade Access To The Public Switched Telephone Network.

Commnet meets this requirement through its provision of mobile voice service that is interconnected to the public switched telephone network. Commnet's voice service includes minutes of use for local service provided at no charge to end users. Commnet's voice service also provides access to emergency services via 911 or E-911, wherever available from local government or public safety organizations. Commnet commits to provide toll limitation services to qualifying low-income consumers as provided in the FCC's Rules.<sup>13</sup>

### Broadband Internet Access Services

Commnet's broadband internet offering provides the capability to transmit and receive data by radio from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service.<sup>14</sup>

For CAF Phase II support recipients, the FCC defines supported service as qualifying voice service and conditions the grant of funding on the offering of qualifying broadband services. Therefore, an ETC must offer voice telephony as a standalone service throughout the designated service area and must offer voice telephony services at rates that are reasonably comparable to urban rates.<sup>15</sup> Commnet commits to provide the supported services consistent with the obligations applicable to CAF Phase II support recipients.<sup>16</sup> Commnet also commits to offer Lifeline service as required by the Commission's rules at all locations where it has been awarded support.<sup>17</sup>

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<sup>13</sup> 47 C.F.R. § 54.101(a)(1).

<sup>14</sup> 47 C.F.R. § 54.101(a)(2).

<sup>15</sup> *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197, 10-90, Public Notice, DA 18-714, July 10, 2018 (*CAF Phase II ETC Public Notice*), p 3.

<sup>16</sup> 47 C.F.R. § 54.101(c).

<sup>17</sup> 47 C.F.R. § 54.101(d).

**C. Commnet Provides Service Using Its Own Facilities**

Commnet is a facilities-based mobile voice/broadband and fixed broadband provider with its own towers, radio equipment, trunking, switching facilities, and other associated facilities. Therefore, Commnet meets the applicable facilities-based requirement for ETCs that the supported services must be provided either using its own facilities or a combination of its own facilities and resale of another carrier's service.<sup>18</sup>

**D. Commnet Will Provide Service Throughout Its Designated Service Area**

Commnet commits to provide the supported service throughout its designated service area in portions of Beaver County and Kane County, identified in Exhibits 1 and 2 attached hereto, consistent with all applicable requirements. Exhibit 1 identifies the auction item numbers and census block group numbers for which Commnet has been awarded CAF Phase II support via Auction 903 in the state of Utah.<sup>19</sup> Exhibit 2 is a map that presents a visual depiction of the areas corresponding to the census block groups for which Commnet was the winning bidder and for which Commnet seeks ETC designation.<sup>20</sup> These areas comprise portions of eastern Beaver County and western Kane County.

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<sup>18</sup> 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1).

<sup>19</sup> Commnet's parent company, Commnet Wireless, LLC has assigned its winning bids in the state of Utah to Commnet Four Corners, LLC and NTUA Wireless, LLC, consistent with FCC requirements, by filing the required information on the FCC Form 683. NTUA Wireless, LLC has been assigned the winning census block groups within the boundaries of the Navajo Nation. Commnet Four Corners, LLC has been assigned the winning census block groups outside the boundaries of the Navajo Nation in the state of Utah.

<sup>20</sup> Commnet seeks ETC designation for all of the areas in the State of Utah in dark purple identified in Exhibit 2. NTUA Wireless, LLC will serve the areas identified in light purple.

**E. Commnet Will Advertise the Availability of Its Services and Charges Using Media of General Distribution**

Commnet will advertise the availability of, and charges for, the supported service offerings using media of general distribution. Commnet will also undertake outreach initiatives to increase consumer awareness of its Lifeline service offering, consistent with all applicable requirements. Commnet currently offers and advertises its services, including those offerings that include all of the supported services, via the Internet, print media, billboards, and targeted mailings, among others. Commnet will advertise its universal service offerings in a manner consistent with applicable requirements.

**F. Commnet Meets the Additional Requirements for Designation as an ETC**

Commnet further certifies that it meets all of the Commission's requirements for designation as an ETC under Section 214(e)(2).<sup>21</sup>

*Five-Year Plan*

Commnet certifies that it will provide service to the locations for which it has been awarded support consistent with the deployment obligations associated with the receipt of CAF Phase II support including the annual reporting of service to geocoded locations and certification of benchmark milestones. Given these obligations, the FCC has waived the requirement that winning bidders seeking an FCC ETC designation file a five-year service improvement plan.<sup>22</sup>

*Compliance With Applicable Service Requirements*

Commnet certifies that it will comply with the service requirements applicable to CAF Phase II support that it receives.

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<sup>21</sup> 47 C.F.R. § 54.202.

<sup>22</sup> *CAF Phase II ETC Public Notice*, p. 4

### Ability to Remain Functional in Emergency Situations

Commnet has the ability to remain functional in emergency situations as required by FCC rules.<sup>23</sup> Specifically, Commnet has adequate amounts of back-up power to ensure functionality without an external power source, and is able to reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations. Commnet further commits to comply with any applicable reporting requirements of the FCC with respect to outages. The Commnet system is reinforced by the presence of generator backups, capable of running for extended periods in the event of a major electrical outage. These include back-up batteries that provide at least four hours of back-up power and portable generators can be moved to individual cell sites, as needed. Because individual cell sites are spread out, it is highly unlikely that an electrical outage would affect more than two sites simultaneously. In the event of power or other types of failure, the cell sites are equipped with alarms that will alert Commnet technicians. Additionally, the sites are monitored remotely by Commnet's 24/7 Network Operations Center (NOC) should there be a total communications failure at the site. Commnet's main switch connectivity to the public switched voice network is based on a ring topology and is redundant – if the ring is cut, call traffic can be re-routed. Commnet uses both microwave and leased lines for added diversity to cell site hubs. Backbone traffic lines are designed with sufficient capacity to manage extraordinary spikes. The Company has multiple agreements with long distance providers to absorb excess calling, if needed. Commnet has cell sites on wheels, mobile towers, and mobile generators available for deployment to areas where there are traffic spikes, due to emergencies or special events. Again, Commnet satisfies this requirement for ETC designation.

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<sup>23</sup> 47 CFR. § 54.202(a)(2)



### Consumer Protection and Service Quality Standards

Commnet certifies that it will satisfy all applicable consumer protection and service quality standards applicable to CAF Phase II support recipients.<sup>24</sup> The FCC, however, has waived the consumer protection certification after determining that it was not essential to its ability to monitor an ETCs use of support for its intended purposes.<sup>25</sup>

#### **IV. GRANTING THIS PETITION WILL SERVE THE PUBLIC INTEREST**

Granting Commnet the requested ETC designation for purposes of receiving CAF Phase II support will serve the public interest.<sup>26</sup> The FCC has found that in the context of CAF Phase II, bidders demonstrate their ability to efficiently offer services through the competitive bidding process while in their short and long form applications, bidders demonstrate their ability to meet their public interest obligations. Through such a process, the FCC conducts the cost benefit analysis for ETC designation. Accordingly, carriers need not provide additional specific evidence of service to the public interest in their petitions for ETC designation.<sup>27</sup> Additionally, granting this petition will promote the rapid deployment of advanced services to unserved and unserved areas of Utah in an efficient manner. Grant of this petition also will ensure that CAF Phase II support is used efficiently and effectively.

#### **V. CONCLUSION**

As discussed above, designating Commnet as an ETC for purposes of receiving CAF Phase II support is consistent with the requirements of Section 214(e)(2) of the Act and is in the public

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<sup>24</sup> 47 C.F.R. § 54.202(a)(3)

<sup>25</sup> *CAF Phase II ETC Public Notice*, p. 4.

<sup>26</sup> 47 U.S.C. § 214(e)(6); 47 C.F.R. § 202(b).

<sup>27</sup> *CAF Phase II ETC Public Notice*, p. 6.

interest. For all of the foregoing reasons, Commnet respectfully requests that the Commission grant its request for designation as an ETC in the areas identified in this Exhibit 1 of this Petition.

Commnet further requests that the Commission issue a notice of scheduling conference as soon as practicable so that a scheduling order can be entered that will provide the parties sufficient time to review the application in time for the Commission to issue an order in this matter before February 25, 2019.<sup>28</sup>

DATED this 24th day of September, 2018.

Respectfully submitted,

A handwritten signature in blue ink that reads "Phillip J. Russell". The signature is written in a cursive style with a large initial "P" and "J".

By: 

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Phillip J. Russell  
HATCH, JAMES & DODGE, P.C.

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<sup>28</sup> See Exhibit 3 (Auction Closing Public Notice), ¶ 16 (requiring Commnet to provide documentation to FCC of ETC designation by 6:00 p.m. ET on February 25, 2019).

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served by email this 24th day of September, 2018, upon the following:

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*/s/ Phillip J. Russell*

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