

Lance J.M. Steinhart, P.C.
Attorney At Law
1725 Windward Concourse
Suite 150
Alpharetta, Georgia 30005

Also Admitted in New York
and Maryland

Telephone: (770) 232-9200
Facsimile: (770) 232-9208
Email: lsteinhart@telecomcounsel.com

August 29, 2023

VIA EMAIL to psc@utah.gov

Utah Public Service Commission
160 East 300 South, 4th Floor
Salt Lake City, UT 84111
Commission Administrator

Re: TerraCom, Inc. d/b/a Maxsip Tel – DOCKET NO. 23-2642-01
Direct Testimony of David Tatum
Motion to Late File Direct Testimony of David Tatum

Dear Sir/Madam:

Enclosed please find for filing TerraCom, Inc. d/b/a Maxsip Tel's Direct Testimony of David Tatum and a Motion to Late File such Testimony for Docket No. 23-2642-01.

If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me. Thank you for your attention to this matter.

Respectfully submitted,



Lance J.M. Steinhart, Esq.
Managing Attorney
Lance J.M. Steinhart, P.C.
Attorneys for TerraCom, Inc. d/b/a Maxsip Tel

Enclosures

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Petition of TerraCom, Inc.
d/b/a Maxsip Tel for Designation as an
Eligible Telecommunications Carrier in the
State of Utah and to Participate in the Utah
Universal Service Fund

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) **DOCKET NO. 23-2642-01**
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**PETITIONER’S SUBMISSION OF
PRE-FILED DIRECT TESTIMONY OF DAVID TATUM**

TerraCom, Inc. d/b/a/ Maxsip Tel (“Petitioner”), by counsel, respectfully submits the attached pre-filed testimony of David Tatum.

Respectfully submitted,



Lance J.M. Steinhart, Esq.
Managing Attorney
Lance J.M. Steinhart, P.C.
1725 Windward Concourse, Suite 150
Alpharetta, Georgia 30005
(770) 232-9200 (Phone)
(770) 232-9208 (Fax)
E-Mail: lsteinhart@telecomcounsel.com

Attorneys for TerraCom, Inc. d/b/a Maxsip Tel

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DOCKET NO. 23-2642-01

PRE-FILED DIRECT TESTIMONY OF DAVID TATUM

ON BEHALF OF

TERRACOM, INC. D/B/A MAXSIP TEL

August 29, 2023

1 **Q: PLEASE STATE YOUR NAME, YOUR POSITION WITH TERRACOM, AND**
2 **YOUR BUSINESS ADDRESS.**

3 **A:** My name is David Tatum. I am Chief Financial Officer of TerraCom, Inc. d/b/a Maxsip
4 Tel (hereinafter referred to as “TERRACOM” or the “Company”). My business address
5 is 6650 E. Brainerd Rd., Suite 200, Chattanooga, TN 37421.

6 **Q: PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
7 **PROFESSIONAL EXPERIENCE.**

8 **A:** I graduated from the University of Georgia with a Bachelor of Science in Business and
9 Accounting; I am also a Certified Public Accountant. I entered the work market working
10 at Arthur Andersen LLP as Audit Staff to Tax Manager, then I transitioned to Tax Manager
11 at Deloitte, Haskins & Sells. I served as Vice President and Controller for the next 17 years
12 at multiple companies (ConStar International, Inc./Dorsey Corporation, Coca-Cola
13 Bottling Co. Consolidated, Dorsey Trailers, Inc., and Miller Industries Towing Equipment,
14 Inc.). I became the Co-Owner and Chief Financial Manager of a company with 10
15 employees for 12 years. Then I became the Chief Financial Officer of a company that
16 provided consulting and housing inspection services to the public housing market. It had
17 about 80 employees. I supervised accounting & finance, financial reporting and HR
18 functions. I also managed consolidations accounting, insurance placement - both property
19 & casualty insurance for the companies as well as medical insurance & benefits and served
20 as the liaison with corporate attorneys on corporate and contractual matters. I assisted with
21 due diligence work in reviewing several Lifeline providers in connection with the company
22 owners’ efforts to expand their lines of business. At present, I am the Chief Financial
23 Officer at Global Reconnect, LLC and TerraCom, Inc. that provide telephone and data

1 services to low-income individuals under the FCC's "Lifeline" and "ACP" programs. I
2 supervise accounting & finance, financial reporting, inventory management and HR
3 functions. I also manage consolidations accounting, insurance placement - both property
4 & casualty - for the companies as well as medical insurance & benefits and serve as the
5 liaison with corporate attorneys on corporate and contractual matters.

6 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

7 **A:** The purpose of my testimony, combined with the Petition that TERRACOM filed in this
8 proceeding on July 27, 2023, is to demonstrate to the Public Service Commission of Utah
9 ("Commission") that TERRACOM meets the state and federal requirements for
10 designation as an ETC for the limited purpose of offering Lifeline services to qualified
11 households in Utah and to Participate in the Utah Universal Service Funds ("Utah USF").
12 I will address the overall requirements for designation as an ETC and the public interest
13 benefits that will be realized by designating TERRACOM as an ETC.

14 **Q: DO YOU VERIFY THE STATEMENTS AND FACTS MADE IN TERRACOM'S**
15 **VERIFIED PETITION AND THE EXHIBITS ATTACHED THERETO?**

16 **A:** Yes, I verify the statements and facts made in TERRACOM's Petition and the exhibits
17 attached thereto, filed in this proceeding on July 27, 2023 (the "Verified Petition"), and
18 adopt the Verified Petition as my own testimony.

19 **Q: PLEASE PROVIDE A BRIEF DESCRIPTION OF TERRACOM.**

20 **A:** TERRACOM is an Oklahoma corporation organized on April 10, 2003, with principal
21 offices located at 6650 East Brainerd Road, Suite 200, Chattanooga, Tennessee 37421.
22 TERRACOM is owned Fifty One percent (51%) by Global Reconnect, LLC, a Delaware
23 limited liability company; and Forty Nine percent (49%) by MAXSIP TEL LLC, a New

1 York limited liability company (“Maxsip”).¹ TERRACOM also owns One hundred
2 percent (100%) of YourTel America, Inc., a Missouri corporation (“YourTel”).

3 TERRACOM is a provider of commercial mobile radio service (“CMRS”) and
4 provides prepaid wireless telecommunications services to consumers by using the underlying
5 wireless networks of Tier 1 carriers, currently T-Mobile USA, Inc. (“T-Mobile”) and AT&T
6 Mobility, LLC (“AT&T”) (collectively, “Underlying Carriers”) on a wholesale basis.
7 TERRACOM obtains from its Underlying Carriers the network infrastructure and wireless
8 transmission facilities to allow the Company to operate as a Mobile Virtual Network
9 Operator (“MVNO”). The Underlying Carrier is selected based on best coverage available
10 at the service address.

11 TERRACOM is designated as an ETC to provide Lifeline services to low-income
12 consumers on a wireless basis in Arizona, Arkansas, Colorado, Indiana, Iowa, Louisiana,
13 Maryland, Minnesota, Nebraska, Nevada, Oklahoma, Texas, West Virginia and Wisconsin.
14 As of 2015, TERRACOM directly holds 100% of the ownership interest in YourTel, which
15 is designated an ETC to provide Lifeline services on a wireless basis in Illinois, Kansas,
16 Maine, Missouri, Pennsylvania, Rhode Island, and Washington. TERRACOM
17 commenced providing Lifeline services in 2004.

¹ On April 3, 2023, MAXSIP TELECOM CORPORATION reorganized from a New York corporation to a New York limited liability company.

1 **Q: PLEAE DESCRIBE ANY PENDING TRANSACTIONS CONCERNING**
2 **OWNERSHIP OF TERRACOM.**

3 **A.** Pursuant to the terms of a Stock Purchase Agreement by and among TERRACOM; Global
4 Reconnect, LLC, a Delaware limited liability company (“Seller”); and Maxsip, Maxsip
5 will purchase one hundred percent (100%) of the issued and outstanding common stock of
6 TERRACOM including its wholly owned subsidiary, YourTel from Seller (the
7 “Transaction”). In step one of the Transaction, Maxsip acquired forty nine percent (49%)
8 of the issued and outstanding common stock of TERRACOM; step two of the Transaction
9 is the purchase of the remaining fifty-one percent (51%) of the stock of TERRACOM
10 which will close upon obtaining any required regulatory approvals for the Transaction,
11 including its 5th Revised Compliance Plan, which was filed with the FCC on March 1,
12 2023, a copy of which is attached to the Verified Petition as Exhibit 2.

13 Maxsip was formed in 2008 and then commenced offering competitive local exchange
14 and resold long distance service. On August 28, 2008, the FCC International Bureau
15 granted Maxsip Section 214 international authority to provide facilities-based service in
16 accordance with section 63.18(e)(1) of the FCC’s rules, and also to provide resale service
17 in accordance with section 63.18(e)(2) of the FCC’s rules. Maxsip’s principal offices are
18 located at 708 Central Avenue, Woodmere, New York 11598. Maxsip has established
19 considerable financial resources that will be available, as needed, to support TERRACOM
20 in its operations and continuing growth. Maxsip is wholly owned by Israel Max, a United
21 States citizen. Maxsip provides competitive local exchange services in New York and New
22 Jersey, as well as landline Lifeline services in New York. Maxsip is authorized to provide
23 commercial mobile radio services throughout the United States and Puerto Rico, is

1 authorized to provide VoIP services throughout the United States, and has been authorized
2 to provide services by the FCC and USAC under the Affordable Connectivity Program
3 (“ACP”) (and previously the Emergency Broadband Benefit “EBB” program) in said
4 jurisdictions.

5 **Q: DOES TERRACOM CURRENTLY PROVIDE TELECOMMUNICATIONS**
6 **SERVICE IN UTAH?**

7 **A:** No, TERRACOM does not currently offer wireless telecommunications service in Utah.
8 TERRACOM plans to launch its Lifeline wireless services in Utah upon approval of its
9 Verified Petition and FCC approval of the proposed transaction.

10 **Q: IN WHICH STATES DOES TERRACOM HAVE REQUESTS FOR ETC**
11 **DESIGNATION PENDING?**

12 **A:** TERRACOM has recently applied for ETC Designation in the following jurisdictions:
13 Alaska, Georgia, Idaho, Kentucky, Michigan, Mississippi, Montana, New Jersey, New
14 York, North Dakota, Ohio, South Dakota, Tennessee, Vermont and Virginia.

15 **Q: DOES TERRACOM CURRENTLY CONTRIBUTE TO THE FUNDING FOR**
16 **UNIVERSAL SERVICE?**

17 **A:** To the best of my knowledge, TERRACOM’s account is current with the FCC in regard
18 to regulatory fees, and its account is current with USAC in regard to Universal Service
19 Fund (“USF”) contributions.

20

21

22

1 **Q: WHAT IS THE NATURE OF TERRACOM'S ETC DESIGNATION REQUEST?**

2 **A:** TERRACOM seeks ETC designation solely to provide Lifeline service to qualifying Utah
3 households and to Participate in the Utah USF; it does not seek access to funds from the
4 federal USF for the purpose of participating in the Link-Up program or providing service
5 to high cost areas.

6 **Q: DOES TERRACOM MEET THE REQUIREMENTS FOR OBTAINING ETC**
7 **DESIGNATION?**

8 **A:** Yes. TERRACOM meets the requirements for ETC designation contained in federal
9 regulations. Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules provide
10 that Petitioners for ETC designation must be common carriers that will offer all of the
11 services supported by universal service, either using their own facilities or a combination
12 of their own facilities and the resale of another carrier's services, except where the FCC
13 has forborne from the "own facilities" requirement. Petitioners also must commit to
14 advertise the availability and rates of such services and provide additional information set
15 forth in 47 C.F.R. § 54.202(a). TERRACOM satisfies each of the above-listed
16 requirements.

17 CMRS resellers like TERRACOM are treated as common carriers. TERRACOM
18 recognizes that Section 214(e)(1)(A) of the Act states that ETCs shall offer services, at
19 least in part, over their own facilities and that the FCC's Rules (47 C.F.R. § 54.201(i))
20 prohibit state commissions from designating as an ETC a telecommunications carrier that
21 offers services exclusively through the resale of another carrier's services. However, the
22 FCC granted forbearance from enforcement of this facilities requirement to carriers

1 seeking Lifeline-only ETC designation.²

2 In accordance with the *Lifeline and Link Up Reform Order*, TERRACOM filed a
3 Compliance Plan with the FCC, which the FCC approved on May 25, 2012.³ TERRACOM
4 filed its Fourth Revised Compliance Plan on October 3, 2016, which the FCC approved on
5 November 8, 2016,⁴ identifying a transfer of control and making revisions to comply with
6 rule changes since the 2012 Lifeline Reform Order. TERRACOM filed its 5th Revised
7 Compliance Plan, which remains pending, on March 1, 2023. TERRACOM commits to
8 providing Lifeline service in Utah in accordance with its approved Compliance Plan, as
9 revised, and in compliance with applicable state and federal regulations, to the extent
10 amendments thereto may supersede commitments made in the Compliance Plan.

11 **Q: ARE STATES LEGALLY REQUIRED TO COMPLY WITH THE FCC’S GRANT**
12 **OF FORBEARANCE?**

13 **A:** While I am not an attorney, I understand that when the FCC exercises its forbearance
14 authority under Section 10 of the Act, it is binding on all state commissions. Section 10(e)
15 of the Act provides: “[a] State commission may not continue to apply or enforce any
16 provision of this chapter that the [Federal Communications] Commission has determined

² See *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline and Link Up Reform Order*”) ¶ 368.

³ *Wireline Competition Bureau Approves the Compliance Plans of American Broadband & Telecommunications, Budget Prepay, Consumer Cellular, Global Connection, TerraCom and Total Call*, Public Notice, 27 FCC Rcd 5776 (WCB rel. May 25, 2012); *In Re Telecommunications Carriers Eligible for Universal Service Support, et al.*, Third Revised Compliance Plan of TerraCom, Inc. (filed June 19, 2012) (providing minor updates requested by Bureau staff).

⁴ *Wireline Competition Bureau Approves the Amended Compliance Plan of TerraCom*, Public Notice, DA 16-1264 (rel. Nov. 8, 2016); *In Re Telecommunications Carriers Eligible for Universal Service Support, et al.*, Fourth Revised Compliance Plan of TerraCom, Inc. (filed Oct. 3, 2016), a copy of which can be found at <https://www.fcc.gov/ecfs/document/1003273824499/1>.

1 to forbear from applying under subsection (a) of this section.” As such, this Commission
2 may not apply the facilities-based requirement to TERRACOM. Indeed, the Commission
3 has the authority under Section 214(e)(2) of the Act to grant the Company’s request for
4 designation as an ETC throughout the State of Utah.

5 **Q: HAS TERRACOM BEEN DESIGNATED AS AN ETC IN OTHER STATES OR**
6 **TERRITORIES?**

7 **A:** Yes, as mentioned previously, TERRACOM (including YourTel) has been designated as
8 an ETC on a wireless basis in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa,
9 Kansas, Louisiana, Maine, Maryland, Minnesota, Missouri, Nebraska, Nevada, Oklahoma,
10 Pennsylvania, Rhode Island, Texas, Washington, West Virginia and Wisconsin.

11 **Q: HAVE THE STATE COMMISSIONS DETERMINED THAT THE PUBLIC**
12 **INTEREST WOULD BE SERVED BY THE DESIGNATION OF TERRACOM AS**
13 **AN ETC?**

14 **A:** Yes, in each of the jurisdictions where TERRACOM has been granted ETC status, the state
15 commissions determined that the public interest would be served by designating
16 TERRACOM as an ETC.

17 **Q: WHAT FUNCTIONS WILL TERRACOM OFFER TO LIFELINE SUBSCRIBERS**
18 **IF GRANTED ETC STATUS?**

19 **A:** **TERRACOM** is able to provide all supported services required by Section 54.101(a) of
20 the FCC’s Rules, which consists of voice telephony service and broadband service.
21 Eligible broadband Internet access services (“BIAS”) must provide “the capability to
22 transmit data to and receive data from all or substantially all Internet endpoints, including
23 any capabilities that are incidental to and enable the operation of the communications

1 service, but excluding dial-up Internet access service.” TERRACOM provides BIAS via
2 resale of its underlying carrier(s) wireless services. Eligible Voice Telephony Services
3 must provide the following:

4 a. *Voice-grade access to the public switched telephone network.*

5 TERRACOM provides voice grade access to the public switched telephone
6 network (“PSTN”) through the purchase of wholesale CMRS services from its
7 underlying carrier(s).

8 b. *Minutes of Use for Local Service.* As part of the voice grade access to the
9 PSTN, an ETC must provide minutes of use for local service at no additional
10 charge to end-users. TERRACOM offers a variety of rate plans that provide its
11 customers with minutes of use for local service at no additional charge.

12 c. *Access to emergency services.* TERRACOM provides 911 and E911 access
13 for all of its customers to the extent the local government in its service area has
14 implemented 911 or E911 systems, and will continue to comply with all FCC E911
15 requirements applicable to wireless resellers. TERRACOM also complies with
16 the FCC’s regulations governing the deployment and availability of E911
17 compatible handsets.

18 d. *Toll limitation for qualifying low-income consumers.* TERRACOM’s
19 service is not offered on a distance-sensitive basis and local and domestic long
20 distance minutes are treated the same. In the *Lifeline and Link Up Reform Order*,
21 the FCC stated that toll limitation would no longer be deemed a supported service,
22 and that ETCs are not required to offer toll limitation service to low-income

1 consumers if the Lifeline offering provides a set number of minutes that do not
2 distinguish between toll and non-toll calls.

3 **Q: IN WHAT SERVICE AREAS IS TERRACOM SEEKING DESIGNATION AS AN**
4 **ETC?**

5 **A:** TERRACOM is not a rural telephone company as defined in Section 153(37) of the Act
6 (47 U.S.C. § 153(37)). Accordingly, TERRACOM is required to describe the geographic
7 area(s) within which it requests designation as an ETC. TERRACOM requests ETC
8 designation that is statewide in scope to allow the Company to provide Lifeline service
9 wherever its underlying, facilities-based providers have wireless coverage. The
10 Company's coverage area, including federally recognized tribal lands, is attached to its
11 Verified Petition as Exhibit 3. TERRACOM understands that its service area overlaps
12 with rural carriers in Utah, but maintains that the public interest factors described below
13 justify its designation in these carriers' service areas, especially because it seeks ETC
14 designation solely to utilize USF funding to provide Lifeline service to qualified low-
15 income consumers. TERRACOM is not eligible for and does not seek Link-Up or high-
16 cost support.

17 Therefore, designation of TERRACOM as an ETC will cause no growth in the
18 high-cost portions of the USF and will not erode high-cost support from any rural telephone
19 company. In fact, the FCC has determined that “[d]esignation of competitive ETCs
20 promotes competition and benefits consumers in rural and high-cost areas by increasing
21 customer choice, innovative services, and new technologies.”⁵ While federal rules (47

⁵ See *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, Memorandum Opinion and Order, 16 FCC Rcd 48, 55 (2000).

1 U.S.C. §§ 160, 214(e)(5) and 47 C.F.R. § 54.207(b)) require that the service area of an ETC
2 conform to the service area of any rural telephone company serving the same area (the
3 “service area conformance” requirement), the FCC’s *Lifeline and Link Up Reform*
4 *Memorandum Opinion and Order* (FCC 13-44 released April 15, 2013) authorized
5 forbearance from the service area conformance requirements with respect to carriers
6 seeking to provide Lifeline-only service.⁶ In light of this forbearance, the Commission has
7 the authority to designate ETCs such as TERRACOM in rural areas without concern for
8 the service area conformance requirement.⁷

9 **Q: PLEASE EXPLAIN TERRACOM’S SERVICE COMMITMENT THROUGHOUT**
10 **THE PROPOSED SERVICE AREA.**

11 **A:** TERRACOM will provide service in Utah by reselling service which it obtains from its
12 Underlying Carriers. These providers’ networks are operational and largely built out.
13 Thus, TERRACOM will be able to commence offering its Lifeline service to all locations
14 served by its underlying carrier(s), initially AT&T and T-Mobile, very soon after receiving
15 approval from the Commission. In accordance with 47 C.F.R. § 54.202(a)(1)(i),
16 TERRACOM commits to comply with the service requirements applicable to the low-
17 income support that it receives. TERRACOM commits that its Lifeline-supported services
18 will meet or exceed the minimum service standards set forth in 47 C.F.R. § 54.408,
19 including as they change going forward. Because TERRACOM seeks ETC designation in
20 order to provide supported services only under subpart E of Part 54 of the FCC’s Rules,
21 submission of a five-year plan under 47 C.F.R. § 54.202(a)(1)(ii) is not required.

⁶ See *In the Matter of Telecommunications Carriers Eligible for Support, Lifeline and Link Up Reform*, WC Docket No. 09-197, WC Docket No. 11-42, Memorandum Opinion and Order, FCC 13-44 (rel. April 15, 2013).

⁷ See 47 C.F.R. § 54.207(c).

1 **Q: WILL TERRACOM COMPLY WITH APPLICABLE CONSUMER**
2 **PROTECTION AND SERVICE QUALITY STANDARDS?**

3 **A:** Yes, TERRACOM’s service is of the same quality and reliability as that of its Underlying
4 Carriers. Under FCC guidelines (47 C.F.R. § 54.202(a)(3)), an ETC Petitioner must
5 demonstrate that it will satisfy applicable consumer protection and service quality
6 standards, and wireless Petitioners may satisfy this requirement with a commitment to
7 comply with the Cellular Telecommunications and Internet Association’s (“CTIA”)
8 Consumer Code for Wireless Service. The Company hereby commits to comply with the
9 CTIA Consumer Code for Wireless Service.

10 **Q: IS TERRACOM ABLE TO REMAIN FUNCTIONAL IN EMERGENCY**
11 **SITUATIONS?**

12 **A:** Yes, in accordance with 47 CFR §54.202(a)(2), TERRACOM has the ability to remain
13 functional in emergency situations. Through its agreement with its Underlying Carriers,
14 TERRACOM provides to its customers the same ability to remain functional in emergency
15 situations as currently provided by the underlying carrier(s) to their own customers,
16 including access to a reasonable amount of back-up power to ensure functionality without
17 an external power source, the ability to reroute traffic around damaged facilities, and the
18 capability of managing traffic spikes resulting from emergency situations.

19 **Q: PLEASE EXPLAIN TERRACOM’S FINANCIAL AND TECHNICAL**
20 **CAPABILITY TO PROVIDE LIFELINE SERVICE IN UTAH.**

21 **A:** In accordance with 47 C.F.R. § 54.202(a)(4), TERRACOM is financially and technically
22 capable of providing Lifeline-supported services. Maxsip brings to TERRACOM not only
23 financial stability, but also managerial and technical resources available to Maxsip which

1 has been providing telecommunications service since 2008 including wireline Lifeline
2 service, and wireless service under the EBB and ACP. Maxsip receives revenue from a
3 number of sources which are independent from the revenue it receives in the form of
4 Lifeline reimbursements, such as non-Lifeline wireless income from the sale of prepaid
5 wireless services to non-Lifeline consumers as well as the sale of replenishment airtime
6 minutes and data to Lifeline consumers, the sale of various other ancillary services, and
7 CLEC and VoIP services. Maxsip will similarly move forward with TERRACOM
8 operations such that TERRACOM provides non-Lifeline services wholly separate from
9 and/or complementary to its Lifeline services. TERRACOM has provided non-Lifeline
10 telecommunications services since 2004 and will continue to do so after the closing of the
11 Transaction. Consequently, TERRACOM never has and will not be relying exclusively on
12 Lifeline reimbursement for its operating revenues. Maxsip has not been subject to
13 enforcement sanctions related to the Low Income Fund or ETC revocation proceedings in
14 any state.⁸ Neither TERRACOM nor any of its affiliates have any pending investigations
15 before the FCC.

16 In addition, TERRACOM's and Maxsip's financial and technical capabilities to
17 provide service are demonstrated by its performance over 20 years. The senior
18 management of TERRACOM and Maxsip has great depth in the telecommunications
19 industry and offers extensive telecommunications business technical and managerial
20 expertise to TERRACOM.⁹ TERRACOM will be providing resold wireless service, and

⁸ Neither Maxsip nor TerraCom have been subject to any ETC revocation proceedings. TerraCom has resolved all FCC enforcement proceedings. *In Re TerraCom, Inc., and YourTel America, Inc.* File Nos.: EB-TCD-13- 00009175, EB-IHD-13-00010677, Order, 30 FCC Rcd 7,075 (EB rel. July 9, 2015).

⁹ See Exhibit 5 for key management bios.

1 therefore will also rely upon the managerial and technical expertise of its Underlying
2 Carriers.

3 **Q: WHAT ARE THE RATES AND TERMS OF TERRACOM'S LIFELINE**
4 **OFFERING?**

5 **A:** TERRACOM commits that its Lifeline-supported voice services will meet or exceed the
6 minimum service standards set forth in 47 C.F.R. § 54.408, including as such standards are
7 updated going forward. TERRACOM's Lifeline-supported broadband services will also
8 meet the minimum service standards set forth in 47 C.F.R. § 54.408 for mobile broadband
9 internet access services, including for service speed and data usage allowance, as such
10 standards are updated going forward. To the extent TERRACOM provides devices for use
11 with Lifeline-supported broadband service, such devices will meet the equipment
12 requirements set forth in 47 C.F.R. § 54.408(f), and TERRACOM will not impose an
13 additional or separate tethering charge for mobile data usage below the minimum standard.

14 Attached hereto as Exhibit 6 to the Verified Petition, is a summary table of the
15 Company's proposed Lifeline service offerings, showing that Utah Lifeline customers will
16 receive 1,583 voice minutes, unlimited text messages, and 4.5 gigabytes (GB) of data per
17 month at a net cost of \$0.00 after application of Lifeline and Utah USF support.¹⁰ Tribal
18 Lifeline customers will receive 1,583 voice minutes and unlimited text with 10 GB data.
19 Lifeline customers that also elect to receive ACP benefits from TERRACOM will receive
20 1,583 voice minutes and unlimited texts with 15 GB data (4,583 voice minutes and

¹⁰ This plan meets the requirements to receive full Lifeline support of \$9.25 based upon current FCC minimum service standards ("MSS") and may change based on future MSS.

1 unlimited data for Tribal residents) after application of Lifeline/Utah USF and ACP
2 support. Customers will be able to purchase additional minutes or data as needed. In
3 addition to wholly-supported or discounted wireless services, prepaid Lifeline customers
4 will receive access to voicemail, caller ID and call waiting features at no additional charge.
5 All plans will include nationwide domestic long-distance at no extra per-minute charge,
6 and TERRACOM will not assess any usage for access to its free customer services (611).
7 Emergency (911) calls will be free, regardless of service activation or availability of
8 minutes, and will not count against the customer's airtime. The Company's Lifeline
9 offering will provide feature-rich mobile connectivity for qualifying subscribers without
10 the burden of credit checks or service contracts. TERRACOM's prepaid offering will be
11 an attractive alternative for consumers who need the mobility, security, and convenience
12 of a wireless phone, but who are concerned about usage charges or long-term contracts.

13 **Q: WILL TERRACOM CHARGE INSTALLATION, ACTIVATION, OR**
14 **TERMINATION FEES?**

15 **A:** No, TERRACOM will not charge installation, activation, or termination fees.

16 **Q: WILL TERRACOM ADVERTISE THE AVAILABILITY OF ITS UNIVERSAL**
17 **SERVICE OFFERINGS USING MEDIA OF GENERAL DISTRIBUTION?**

18 **A:** TERRACOM will advertise the availability and rates for the services described above
19 using media of general distribution as required by 47 C.F.R. § 54.201(d)(2). TERRACOM
20 will comply with the FCC's rules regarding information to be included in marketing
21 materials, including FCC rule section 54.405(c). Specifically, TERRACOM's marketing
22 materials will state, in easily understood language, that: (i) the service is a Lifeline service;
23 (ii) Lifeline is a government assistance program; (iii) the service may not be transferred to

1 someone else; (iv) consumers must meet certain eligibility requirements before enrolling
2 in the Lifeline program; (v) the Lifeline program permits only one Lifeline discount per
3 household; (vi) documentation is necessary for enrollment; and (vii) TERRACOM is the
4 provider of the services. Moreover, the Lifeline application/certification form will state
5 that Lifeline is a federal benefit and that consumers who willfully make a false statement
6 in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be
7 barred from the program.

8 The Company will advertise its services in a manner reasonably designed to reach those
9 likely to qualify for Lifeline service, using mediums for outreach such as internet, radio,
10 television, print advertising, and direct mailing.¹¹ Moreover, TERRACOM will expand its
11 advertising efforts as necessary to ensure that Lifeline-eligible customers are aware of the
12 Company's service offerings. Initially, TERRACOM advertising will be in English and
13 Spanish, and other languages may be added.

14 **Q: WILL TERRACOM COMPLY WITH THE LIFELINE CERTIFICATION AND**
15 **VERIFICATION REQUIREMENTS?**

16 **A:** Yes. Customers interested in obtaining information on the Lifeline program will be
17 directed to a toll-free telephone number and to the Company's website, which will contain
18 information regarding the Company's Lifeline service plans, including a description of the
19 Lifeline program and eligibility criteria. Customers must then apply directly through the
20 National Lifeline Eligibility Verifier ("National Verifier"), which they may do online or
21 by submitting all required documentation to the National Verifier by mail. Customers may

¹¹ See attached Exhibit 4 to the Verified Petition for a sample advertisement. The advertisement will be updated if necessary to comply with any state specific requirements.

1 download a copy of the application form from the Internet (either from the National
2 Verifier's or Company's website) or request that a copy be mailed to them. TERRACOM
3 utilizes the standard Lifeline application forms as required by FCC rules, and thus complies
4 with the disclosure and information collection requirements in 47 C.F.R. § 54.410(d).¹²
5 TERRACOM will certify and verify initial and continued consumer eligibility in
6 accordance with 47 C.F.R. § 54.410, and will notify the applicant that the prepaid service
7 must be personally activated by the subscriber and the subscriber must use their service
8 every thirty (30) days. TERRACOM further confirms that it will not provide a consumer
9 with an activated device and will not activate a Lifeline service unless or until it has
10 confirmed that the consumer is a qualifying low-income household pursuant to 47 C.F.R.
11 § 54.409, and completed the required eligibility determination and certification
12 requirements of 47 C.F.R. §§ 54.410, 54.404-54.405. Processing of consumers' applications
13 and determination of eligibility will be performed by the National Verifier.

14 **Q: HOW WILL CUSTOMERS COMMUNICATE WITH TERRACOM REGARDING**
15 **QUESTIONS, CONCERNS, OR COMPLAINTS?**

16 **A:** TERRACOM commits to exceptional customer service standards. TERRACOM's
17 customer service representatives are located at 181 S Franklin Ave, Valley Stream, NY
18 11581 and the toll-free telephone number is 888-716-8880. Customer service is available
19 Monday through Friday from 10:00AM to 7:00PM EDT via phone or online chat.
20 Subscribers can also initiate support tickets 24 hours a day 7 days a week via an online

¹² *FCC Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program*, WC Docket No. 11-42, Public Notice, "Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program," DA 18-161 (rel. Feb. 20, 2018). The standard application/certification forms are available on USAC's website (See USAC, Lifeline Forms, <http://www.usac.org/li/tools/forms/default.aspx>).

1 chat and customer service representatives respond during the above-mentioned support
2 hours. TERRACOM will cooperate fully with the Commission to resolve all consumer
3 complaints. At this time, the company does not plan to have physical locations and
4 employees in Utah.

5 **Q: WHAT STEPS WILL TERRACOM TAKE TO PREVENT WASTE, FRAUD, AND**
6 **ABUSE OF THE LIFELINE PROGRAM?**

7 **A:** The FCC has taken steps to further curb abuse in the Lifeline program by establishing the
8 National Verifier, which transfers the responsibility of eligibility determination away from
9 Lifeline providers. TERRACOM will rely on the National Verifier to determine initial and
10 ongoing eligibility of Utah Lifeline subscribers. The National Verifier queries the National
11 Lifeline Accountability Database (“NLAD”) for every enrollment to determine whether a
12 prospective subscriber is currently receiving a Lifeline service from TERRACOM or any
13 other ETC, and whether anyone else living at the prospective subscriber’s residential
14 address is currently receiving Lifeline service. TERRACOM thus complies with the
15 requirements of section 54.404 of the FCC’s rules. In addition, Company personnel
16 emphasize the “one Lifeline service per household” restriction in their direct sales contacts
17 with potential customers.

18 Consistent with federal regulations, the Company will not seek USF reimbursement for
19 new subscribers until they have personally activated the service, either by initiation and/or
20 actual use of the service, and will de-enroll any subscriber that has not used the Company’s
21 Lifeline service as set forth in 47 C.F.R. § 54.407(c)(2). An account will be considered
22 active if the authorized subscriber establishes usage, as “usage” is defined by 47 C.F.R.
23 § 54.407(c)(2), during the specified timeframe, currently a period of thirty (30) days, or

1 during the notice period set forth in 47 C.F.R. § 54.405(e)(3), currently a period of fifteen
2 (15) days. In accordance with 47 C.F.R. § 54.405(e)(3), TERRACOM will provide the
3 subscriber advanced notice, using clear, easily understood language, that the subscriber's
4 failure to use the Lifeline service within the notice period will result in service termination
5 for non-usage. Customers that have been deactivated may participate in the Company's
6 Lifeline service in the future by reapplying and re-establishing eligibility.

7 **Q: HOW WILL TERRACOM'S PRESENCE AS AN ETC IN UTAH SERVE THE**
8 **PUBLIC INTEREST?**

9 **A:** A central purpose of the Telecommunications Act of 1996 was to "promote competition
10 and reduce regulation ... to secure lower prices and higher quality services ... and
11 encourage the rapid deployment of new telecommunications technologies" to all citizens,
12 regardless of geographic location or income.¹³ Designation of TERRACOM as an ETC in
13 Utah will further that public interest. Whether because of financial constraints, poor credit
14 history, or intermittent employment, many low-income consumers often lack the countless
15 choices available to most consumers and thus have yet to reap the full benefits of the
16 intensely competitive wireless market.

17 The public interest benefits of the Company's wireless service include larger local
18 calling areas (as compared to traditional wireline carriers), the convenience and security
19 afforded by mobile telephone service, the opportunity for customers to control cost by
20 receiving a preset amount of monthly airtime and data at no net cost, the ability to purchase
21 additional usage at flexible and affordable amounts in the event that included usage has

¹³ The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, 56 (1996).

1 been exhausted, 911 service and, where available, E911 service in accordance with current
2 FCC requirements. The mobility of TERRACOM's service will be particularly attractive
3 to Lifeline-eligible consumers who may frequently change residences or work in migratory
4 jobs. Wireless service offers a stable contact method where traditional landline service
5 would be unavailable or not a viable option. TERRACOM's prepaid wireless service is
6 an especially attractive option for low-income consumers because it alleviates customer
7 concerns regarding hidden costs, varying monthly charges and long-term contract issues.
8 For consumers with limited resources, the ability to meet their communications and
9 broadband access needs, while at the same time anticipating and controlling the associated
10 costs, is critical.

11 TERRACOM's Lifeline program will provide low-income Utah residents with the
12 convenience and security offered by wireless services—even if their financial position
13 deteriorates. TERRACOM's Lifeline offering is an invaluable resource for emergency
14 services and for cash-strapped consumers who may be seeking employment or simply need
15 to maintain contact with family members. It is also a commonly accepted fact that in
16 today's market all consumers, including qualified Lifeline customers, view the portability
17 and convenience of wireless service not as a luxury, but as a necessity.

18 **Q: WHAT ARE SOME OF THE BENEFITS OF INCREASED COMPETITIVE**
19 **CHOICE?**

20 **A:** Introducing TERRACOM into the market as an additional wireless ETC provider will
21 afford low-income Utah residents a wider choice of providers and available services while
22 enhancing the competitive marketplace as ETCs compete for a finite number of Lifeline-
23 eligible customers. Increasing the competitive marketplace of providers has the potential

1 to effectively increase the penetration rate and reduce the number of individuals not
2 connected to the PSTN, while helping to assure that quality services are available at just,
3 reasonable, and affordable rates. TERRACOM expects that qualified consumers will elect
4 to participate in Lifeline if they are aware of a mobile voice and broadband option, and that
5 the availability of competing Lifeline programs will encourage more enhanced service
6 offerings and greater participation in the Lifeline program.

7 **Q: IF TERRACOM'S PETITOIN IS GRANTED, WILL THERE BE ANY**
8 **FINANCIAL IMPACT ON THE UNIVERSAL SERVICE FUND?**

9 **A:** With Lifeline, ETCs only receive support for customers they obtain. The amount of
10 support available to an eligible subscriber is exactly the same whether the support is given
11 through a company such as TERRACOM or the Incumbent LEC operating in the same
12 service area. The number of persons eligible for Lifeline support is the same regardless of
13 the Company's designation as an ETC; TERRACOM will only increase the amount of USF
14 Lifeline funding in situations where it obtains Lifeline customers *not* already enrolled in
15 another ETC's Lifeline program. By implementing the safeguards set forth in the *Lifeline*
16 *and Link-up Reform Order* and utilizing the NLAD and National Verifier (once in place),
17 the likelihood that TERRACOM's customers are not eligible or are receiving duplicative
18 support either individually or within their household is greatly minimized.

19 TERRACOM's ability to increase the Lifeline participation rate of qualified low-
20 income individuals will further the goal of Congress to provide all individuals with
21 affordable access to telecommunications service, and thus any incremental increases in
22 Lifeline expenditures are far outweighed by the significant public interest benefits of
23 expanding the availability of affordable wireless services to low-income consumers.

1 **Q. DOES TERRACOM COMMIT TO COMPLY WITH REGULATIONS IMPOSED**
2 **BY THE COMMISSION?**

3 **A.** TERRACOM hereby asserts its willingness and ability to comply with all the rules and
4 regulations that the Commission may lawfully impose upon the Company's provision of
5 service contemplated by the Verified Petition. TERRACOM commits to pay all applicable
6 state and local regulatory fees, including, but not limited to, universal service fees,
7 emergency services, and relay services. Upon Commission request, the Company is
8 prepared to answer questions or present additional testimony or other evidence about its
9 services within the state.

10 As described below, TERRACOM meets Utah's statutory and regulatory requirements for
11 receipt of Utah USF support as outlined in Utah Code § 54-8b-15 and Utah Administrative
12 Code R746-8-403. TERRACOM further commits to comply with the requirements set
13 forth in Utah Administrative Code R746-8-403 as well as any additional requirements the
14 Commission may deem necessary for Utah USF support.

15 The Utah State Legislature enacted S.B. 130, which amends statutory provisions related
16 to the Utah USF. The amended statute, codified as Utah Code § 54-8b-15, became
17 effective as of July 1, 2017. The amendments to section 54-8b-15 relate to several aspects
18 of the Utah USF, including funding, calculation of a contribution charge, and permitted
19 uses of support. In addition, the amendments provide the following:

20 A facilities-based *or non-facilities-based* wireless telecommunications provider is
21 eligible for distribution from the Universal Telecommunications Service Support
22 Fund under the [L]ifeline program described in Subsection 3(b) for providing

1 [L]ifeline service that is consistent with the Federal Communications
2 Commission's [L]ifeline program for low-income consumers.¹⁴

3 The amended statute further provides that the Commission "may impose reasonable
4 conditions for providing a distribution to a wireless telecommunications provider under the
5 [L]ifeline program."¹⁵ However, the Commission "may not require a wireless
6 telecommunications provider to offer unlimited local calling as a condition of receiving a
7 distribution under the [L]ifeline program described in Subsection 3(b)."¹⁶ Thus, the
8 Commission has the right, but not the obligation, to impose conditions on wireless carriers'
9 receipt of funds from the Utah USF. As a non-facilities-based wireless telecommunications
10 provider, TERRACOM meets the criteria as laid out in the amended Utah statute and is
11 eligible for distributions from the Utah USF based on the requirements detailed in the Utah
12 rules.

¹⁴ Utah Code § 54-8b-15(15)(a) (2017) (emphasis added). Subsection 3(b) provides that the Commission shall use funds in the Utah USF to "fund a [L]ifeline program that covers the reasonable cost to an eligible telecommunications carrier, as determined by the [C]ommission, to offer [L]ifeline service consistent with the Federal Communications Commission's [L]ifeline program for low-income consumers." Utah Code § 54-8b-15(3)(b).

¹⁵ Utah Code § 54-8b-15(15)(b).

¹⁶ Utah Code § 54-8b-15(15)(c).

1 The Commission has also adopted requirements for Lifeline support, which are outlined in
2 Utah Administrative Code R746-8-403. The Commission's rules stipulate that Lifeline
3 support may not exceed \$3.50 per Lifeline subscriber per month of subscription to a service
4 that, for wireless Lifeline, meets FCC broadband Lifeline requirements as set forth in 47
5 C.F.R. 54.408 and allows, at no charge beyond the basic monthly fee, unlimited texting
6 and at least 750 voice minutes per month."¹⁷ Furthermore, the rules provide that ETCs will
7 be eligible for ongoing Lifeline distribution if the company is an ongoing participant in a
8 Commission-approved Lifeline program if the Commission finds it is in the public
9 interest.¹⁸ Its offerings, as detailed herein, meet the requirements outlined by this
10 Commission for eligibility to receive Utah USF support.

11 **Q: IS THERE ANYTHING ELSE YOU WOULD LIKE TO ADD TO YOUR**
12 **TESTIMONY?**

13 **A:** Yes. Based on my testimony above, I would like to reiterate that TERRACOM meets both
14 the FCC and Utah state requirements for designation as an ETC in the State of Utah.
15 Accordingly, TERRACOM respectfully requests that the Commission promptly grant
16 TERRACOM's Verified Petition so that TERRACOM may commence providing Lifeline
17 benefits to qualified low-income Utah consumers at the earliest possible time.

18 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

19 **A:** Yes.

¹⁷ Utah Admin. Code R746-8-403(2)(a)(ii).

¹⁸ Utah Admin. Code R476-8-403(1).

VERIFICATION

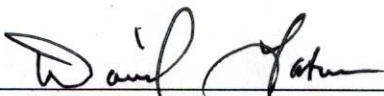
**Verification of David Tatum, CFO of
TerraCom, Inc. d/b/a Maxsip Tel**

State of Tennessee)
)
County of Hamilton)

VERIFICATION

I, David Tatum, affirm that I am the CFO of TerraCom, Inc. d/b/a Maxsip Tel, and hereby state that the matters, facts and statements set forth in the foregoing Testimony are true to the best of my knowledge and belief.

Executed on August 25, 2023



David Tatum, CFO
TerraCom, Inc.
d/b/a Maxsip Tel

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Petition of TerraCom, Inc.
d/b/a Maxsip Tel for Designation as an
Eligible Telecommunications Carrier in the
State of Utah and to Participate in the Utah
Universal Service Fund

)
)
)
) **DOCKET NO. 23-2642-01**
)
)
)

MOTION TO LATE FILE
PRE-FILED DIRECT TESTIMONY OF DAVID TATUM

WHEREAS, TerraCom, Inc. d/b/a Maxsip Tel (“TERRACOM”), submitted its Petition to the Public Service Commission of Utah (the “Commission”) for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Utah and to Participate in the Utah Universal Service Funds (“Utah USF”) (the “Petition”).

WHEREAS, on August 4, 2023, the Commission held a scheduling conference in this docket. During the scheduling conference, the parties stipulated to a schedule, including Direct Testimony of Petitioner to be filed by August 17, 2023;

WHEREAS, on August 9, 2023, the Commission issued a Scheduling Order (the “Order”) adopting the schedule for the Docket;

WHEREAS, on August 23, 2023, Patrick Grecu, *Assistant Attorney General*, Counsel for the Division of Public Utilities, Utah Attorney General’s Office, contacted the undersigned counsel for TERRACOM, stating that “The Utah Division of Public Utilities noticed that TerraCom, Inc. dba Maxsip Tel, LLC has not yet filed direct testimony in support of its petition to be designated as an ETC in Utah. The scheduling order set August 17, 2023, as the deadline for direct testimony of applicant.”; and

WHEREAS, the undersigned counsel maintains that neither he nor his firm received service of the Order, even though the undersigned was named in the Certificate of Service.

NOW THEREFORE, based upon the foregoing, Petitioner, by counsel, respectfully submits this Motion to late file the attached pre-filed testimony of David Tatum.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Lance J.M. Steinhart', written in a cursive style.

Lance J.M. Steinhart, Esq.
Managing Attorney
Lance J.M. Steinhart, P.C.
1725 Windward Concourse, Suite 150
Alpharetta, Georgia 30005
(770) 232-9200 (Phone)
(770) 232-9208 (Fax)
E-Mail: lsteinhart@telecomcounsel.com

Attorneys for TerraCom, Inc. d/b/a Maxsip Tel

August 29, 2023

DOCKET NO. 23-2642-01

CERTIFICATE OF SERVICE

I CERTIFY that on August 29, 2023, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

Patricia Schmid (pschmid@agutah.gov)
Patrick Grecu (pgrecu@agutah.gov)
Robert Moore (rmoore@agutah.gov)
Assistant Utah Attorneys General

Madison Galt (mgalt@utah.gov)
Division of Public Utilities

Alyson Anderson (akanderson@utah.gov)
Bela Vastag (bvastag@utah.gov)
Alex Ware (aware@utah.gov)
Jacob Zachary (jzachary@utah.gov)

(ocs@utah.gov)
Office of Consumer Services

By:
Fallin Steinhart, Telecom Specialist
Lance J.M. Steinhart (lsteinhart@telecomcounsel.com)
Lance J.M. Steinhart, P.C.
Attorneys for TerraCom, Inc. d/b/a Maxsip Tel