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## I. INTRODUCTION

AirVoice Wireless, LLC d/b/a AirTalk Wireless (“AirVoice” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”),<sup>1</sup> Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),<sup>2</sup> and the rules and regulations of the Missouri Public Service Commission (the “Commission”) including 20 CSR 4240-31.015 and 20 CSR 4240-31.016, hereby submits this Application for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Missouri (“Application”). AirVoice seeks ETC designation solely to provide Lifeline service to qualifying Missouri consumers; it will not (and is not eligible to) seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of participating in the Link-Up program or providing service to high cost areas.<sup>3</sup>

As demonstrated herein, and as verified in Exhibit 1 attached hereto, AirVoice meets all the statutory and regulatory requirements for designation as an ETC in the State of Missouri, including the requirements outlined in the FCC’s *Lifeline and Link Up Reform Order*,<sup>4</sup> *Lifeline Modernization Order*,<sup>5</sup> and *Fifth Report and Order*.<sup>6</sup> Rapid grant of AirVoice’s request, therefore,

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<sup>1</sup> 47 U.S.C. § 214(e)(2)

<sup>2</sup> 47 C.F.R. §§ 54.101-54.207.

<sup>3</sup> Given that the Company only seeks Lifeline support from the low-income program and does not seek any high-cost support, ETC certification requirements for the high-cost program are not applicable to the Company.

<sup>4</sup> *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*”).

<sup>5</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (hereinafter, “*Third Report and Order*” or “*Lifeline Modernization Order*”).

<sup>6</sup> *In the Matter of Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 17-287, WC Docket No. 11-42, WC Docket No. 09-197, Fifth Report and Order, Memorandum Opinion and Order and Order on

would advance the public interest because it would enable the Company to commence much needed Lifeline services to a wide array of low-income Missouri residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve this Application.

All correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be addressed to:

Lance J.M. Steinhart  
Managing Attorney  
Lance J.M. Steinhart, P.C.  
Attorneys for AirVoice Wireless, LLC d/b/a AirTalk Wireless  
1725 Windward Concourse, Suite 150  
Alpharetta, Georgia 30005  
(770) 232-9200 (Phone)  
(770) 232-9208 (Fax)  
E-Mail: [lsteinhart@telecomcounsel.com](mailto:lsteinhart@telecomcounsel.com)

With a copy to the Company's local counsel:

William D. Steinmeier  
William D. Steinmeier, P.C.  
2031 Tower Drive  
Jefferson City, Missouri 65109  
(573) 659-8672 (Phone)  
E-Mail: [wds@wdspsc.com](mailto:wds@wdspsc.com)

The Commission contact for the Company is as follows:

Henry Do, CEO  
AirVoice Wireless, LLC  
9920 Brooklet Drive  
Houston, Texas 77099  
(713) 534-1950 (Phone)  
E-Mail: [hdo@hthcomm.com](mailto:hdo@hthcomm.com)

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Reconsideration, and Further Notice of Proposed Rulemaking, FCC 19-111 (rel. Nov. 14, 2019) (hereinafter, "*Fifth Report and Order*").

## II. COMPANY OVERVIEW

AirVoice is a Michigan limited liability company,<sup>7</sup> with its principal office located at 9920 Brooklet Drive, Houston, Texas 77099. AirVoice is a provider of commercial mobile radio service (“CMRS”) and provides prepaid wireless telecommunications services to consumers by using the underlying wireless networks of AT&T Mobility LLC and T-Mobile USA, Inc. (its “Underlying Carriers”) on a wholesale basis. AirVoice obtains the network infrastructure and wireless transmission facilities from its Underlying Carriers to allow the Company to operate as a Mobile Virtual Network Operator (“MVNO”).

AirVoice is currently designated as an ETC and providing Lifeline services in the following jurisdictions: California, Kentucky, Michigan, Mississippi, New York, Ohio, Oklahoma, Pennsylvania, South Carolina and Wisconsin. AirVoice also provides non-Lifeline mobile phone services and is an approved provider of broadband services under the FCC’s Affordable Connectivity Program (“ACP”). AirVoice is not certificated or registered by the Missouri Public Service Commission. The Company will not be providing a telecommunications service or IVoIP service as defined by Section 386.020, RSMo. AirVoice is a wholly owned subsidiary of VTel Holdings, LLC, a Texas limited liability company (“VTel”). Henry Hung Do, a United States citizen and a resident of the State of Texas, owns one hundred percent (100%) of: (a) VTel, which was formed to acquire 100% ownership interest in AirVoice; (b) Cintex Wireless, LLC d/b/a SFone Wireless, a Delaware limited liability company (“Cintex”), that provides Lifeline-only wireless services as an ETC in Arkansas, Maryland, Maine, Rhode Island, and West Virginia and non-Lifeline wireless services throughout the United States, and is approved to provide ACP services in over 45 jurisdictions; (c) NewPhone Wireless, LLC, a Louisiana limited

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<sup>7</sup> AirVoice was formed in the State of Michigan on May 7, 1999.

liability company (“NewPhone”), that is authorized to provide non-Lifeline wireless service throughout the United States and ACP services in over 45 jurisdictions, and provides Lifeline-only wireless services as an ETC in Louisiana; (d) HTH Communications, LLC, a Texas limited liability company, a global and one of the largest mobile device distributors in the United States, which has been in business for more than thirteen (13) years; (e) SofTel Technologies, LLC, a Texas limited liability company, that provides distribution services to wireless providers; and (f) Softel Holdings, LLC, a Texas limited liability company which was formed to acquire 100% ownership interest in TAG Mobile, LLC (“TAG Mobile”)<sup>8</sup>, a limited liability company organized under the laws of the State of Texas. TAG Mobile provides wireless Lifeline services to customers in the following nineteen (19) states in which it has been designated an ETC: Arizona, Arkansas, California, Colorado, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Nevada, Oklahoma, Pennsylvania, South Carolina, Texas, West Virginia and Wisconsin.<sup>9</sup>

Under current ownership, neither AirVoice nor its affiliates have been subject to enforcement sanctions related to the Low-Income Fund or ETC revocation proceedings in any state except as noted below.<sup>10</sup> AirVoice will provide affordable prepaid mobile phone service and high-quality customer service.

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<sup>8</sup> In connection with the proposed transaction with Softel Holdings, LLC (the “Transaction”), TAG Mobile formed TAG Mobile Bankruptcy Sale Entity, LLC (“New TAG Mobile”) as a wholly owned subsidiary. New TAG Mobile is a Texas limited liability company created to receive the regulated assets of TAG Mobile at the closing of the Transaction. New TAG Mobile currently owns no assets and has no debts. Upon consummation of the Transaction, New TAG Mobile will acquire all of the regulated assets of TAG Mobile, including its Lifeline customers, wireless authorizations and its designations as an ETC. Thereafter, New TAG Mobile will operate pursuant to those wireless authorizations and designations to provide Lifeline services to eligible consumers in its designated service areas.

<sup>9</sup> TAG Mobile holds Section 214 authority from the FCC. Filings for necessary approvals of the Transaction in connection with this authority are pending with the FCC.

<sup>10</sup> Pursuant to a Membership Interest Purchase Agreement dated February 6, 2019, Henry Hung Do purchased 100% of the equity of Cintex. Pursuant to an Order and Consent Decree adopted on December 22, 2017, Cintex settled a Notice of Apparent Liability with the FCC (*See* File No. EB-IHD-13-00010671), which all occurred under prior ownership and management. By Order adopted December 16, 2021 (*See* File No. EB-IHD-20-00031449), NewPhone

AirVoice’s service offering will include: (1) local and long distance calling; (2) access to the following custom calling features at no charge: (a) Caller ID; (b) Call Waiting; (c) Call Forwarding; (d) 3-Way Calling; and (e) Voicemail; (3) text messaging; (4) broadband access; and (5) the option for a consumer to “bring their own device” or purchase one from AirVoice. The Company will not require service contracts from its customers, and it will always ensure competitively low pricing for its services and products. AirVoice will manage all aspects of the customer experience, including setting service pricing, handset selection, marketing materials, and live customer service. The Company’s prepaid, budget-friendly pricing will give many low-income consumers the option of having mobile phone service and broadband access without the burden of hidden costs, varying monthly charges, or contractual commitments.

AirVoice’s Lifeline customers will be low-income consumer households that will depend on, and benefit greatly from, AirVoice’s inexpensive and flexible pricing plans. AirVoice will not impose credit checks, nor will it require any deposits or contractual commitments. Most of AirVoice’s customers likely will turn to AirVoice because they cannot afford the postpaid services provided by traditional wireless carriers. AirVoice will affirmatively reach out to the low-income sector of the consumer base to offer attractive and affordable communications options. As such, AirVoice will contribute to the expansion of mobile wireless and broadband services for low-income consumers in Missouri.

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entered into a Consent Decree with the Enforcement Bureau of the FCC for the purpose of terminating the Bureau’s investigation on whether NewPhone, as an ETC, claimed support from the Lifeline program of the Universal Service Fund (USF or Fund) for duplicate or otherwise ineligible subscribers. On September 23, 2020, the Bureau issued NewPhone an LOI to obtain information about the claims in question. NewPhone filed its response to the LOI on November 23, 2021. Within weeks after USAC notified NewPhone of the apparently improper use of beneficiary data, the Company terminated its relationship with the Marketing Agents involved in the enrollments. USAC worked with NewPhone from early August through October 2020 to address the issues raised by the claims. On October 30, 2020, NewPhone submitted revised claims which USAC agreed addressed the full amount at issue in its investigation. Because USAC determined NewPhone had promptly submitted revised claims in the full amount USAC sought, there was no need to issue a recovery letter. To resolve the matter, NewPhone agreed to implement a compliance plan and make a \$100,000 settlement payment.

### III. THE COMMISSION HAS JURISDICTION OVER DESIGNATION OF WIRELESS ETCs

Section 214(e)(2) of the Act provides state public utility commissions with the “primary responsibility” for the designation of ETCs.<sup>11</sup> Although Section 332(c)(3)(A) of the Act prohibits states from regulating the entry of or the rates charged by any provider of commercial mobile service or any private mobile service, this prohibition does not allow states to deny wireless carriers ETC status.<sup>12</sup> Therefore, the Commission has the authority to designate AirVoice as an ETC. Pursuant to this authority, the Commission has historically participated in determining whether to grant ETC status to an applying carrier, including any requesting wireless carrier.<sup>13</sup> 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).

AirVoice recognizes that Section 214(e)(1)(A) of the Act states that ETCs shall offer services, at least in part, over their own facilities and that Section 54.201(i) of the FCC’s Rules (47 C.F.R. § 54.201(i)) prohibits state commissions from designating as an ETC a telecommunications carrier that offers services exclusively through the resale of another carrier’s services. However, the FCC has granted forbearance from enforcement of this facilities requirement to carriers seeking Lifeline-only ETC designation.<sup>14</sup> Section 10(e) of the Act (47 U.S.C. § 160(e)) provides: “[a] State commission may not continue to apply or enforce any provision of this chapter that the [Federal Communications] Commission has determined to forbear from applying under subsection (a) of this section.” As such, the Commission is required by Section 10(e) to act in accordance

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<sup>11</sup> 47 U.S.C. § 214(e)(2).

<sup>12</sup> *USF Order*, at 8858–59, ¶ 145.

<sup>13</sup> See e.g., *In the Matter of Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Missouri for the Limited Purpose of Offering Lifeline and Link Up Service to Qualified Households*, Case No. TA-2009-0327, Order, (Eff. September 5, 2009) (“*TracFone ETC Order*”).

<sup>14</sup> See *Lifeline and Link Up Reform Order* at ¶ 368.



with the FCC's grant of forbearance, and therefore, may not apply the facilities-based requirement to AirVoice. Therefore, the Commission has the authority under Section 214(e)(2) of the Act to grant AirVoice's request for designation as an ETC throughout the State of Missouri.

#### **IV. AIRVOICE SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC UNDER 47 C.F.R. § 54.201**

Section 254(e) of the Act provides that, "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support." Section 214(e)(2) of the Act authorizes state commissions, such as the Commission, to designate ETC status for federal universal service purposes and authorizes the Commission to designate wireless ETCs.<sup>15</sup> Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules provide that applicants for ETC designation must be common carriers that shall, throughout the designated service area, offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier's services, except where the FCC has forbore from the "own facilities" requirement. Applicants also must commit to advertise the availability and rates of such services.<sup>16</sup> As detailed below, AirVoice satisfies each of the above-listed requirements.

##### **A. AirVoice Will Provide Service Consistent with the FCC's Grant of Forbearance from Section 214's Facilities Requirements**

Although Section 214 requires ETCs to provide services using their facilities, at least in part, the FCC has forbore from that requirement with respect to carriers such as AirVoice. In the *Lifeline and Link Up Reform Order*, the FCC granted forbearance from the "own-facilities"

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<sup>15</sup> See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) ("USF Order").

<sup>16</sup> See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

requirement contained in Section 214(e)(1)(A) for carriers that are, or seek to become, Lifeline-only ETCs, subject to the following conditions:<sup>17</sup>

(1) the carrier must comply with certain 911 requirements [(a) providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes; (b) providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services; and (c) complying with conditions (a) and (b) starting on the effective date of this Order]; and

(2) the carrier must file, and the Bureau must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary.

In accordance with the *Lifeline and Link Up Reform Order*, AirVoice filed a Compliance Plan with the FCC, which the FCC approved on December 26, 2012.<sup>18</sup> The FCC approved AirVoice's Revised Compliance Plan on December 23, 2021<sup>19</sup> as the final condition to the Company's transfer of control to VTel. A copy of the Company's current FCC-Approved Compliance Plan is attached hereto as Exhibit 2. AirVoice commits to providing Lifeline service in Missouri in accordance with its FCC-approved Revised Compliance Plan and in compliance with applicable state and federal regulations, to the extent amendments thereto may supersede commitments made in the Compliance Plan.

## **B. AirVoice Is a Common Carrier**

CMRS providers like AirVoice are treated as common carriers.<sup>20</sup>

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<sup>17</sup> See *Lifeline and Link Up Reform Order* at ¶¶ 368, 373, and 379.

<sup>18</sup> See FCC Public Notice DA 12-2063, <https://www.fcc.gov/document/wcb-approves-nine-lifeline-compliance-plans>.

<sup>19</sup> See Public Notice DA 21-1641, <https://www.fcc.gov/document/wcb-approves-revised-compliance-plan-airvoice-wireless-llc>.

<sup>20</sup> *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory "mobile services" category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) ("mobile services" providers are common carriers); see also *PCIA*

### C. AirVoice Will Provide All Supported Services

Through its Underlying Carriers, AirVoice is able to provide all of the supported services required by Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)) as follows:

#### 1. Voice Telephony Service

As set forth in 47 C.F.R. § 54.101(a)(1), eligible Voice Telephony Services must provide the following:

Voice Grade Access to the Public Switched Telephone Network. AirVoice provides voice grade access to the public switched telephone network ("PSTN") through the purchase of wholesale CMRS services from T-Mobile and AT&T.

Local Usage At No Additional Charge. AirVoice offers rate plans that provide its customers with minutes of use for local service at no additional charge.

Access to Emergency Services. AirVoice provides 911 and E911 access for all of its customers to the extent the local government in its service area has implemented 911 or E911 systems. As noted, calls to 911 emergency services will always be free and will be available regardless of service activation status or availability of minutes. AirVoice also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets.

Toll Limitation. In its *Lifeline and Link Up Reform Order*, the FCC provided that toll limitation would no longer be deemed a supported service.<sup>21</sup> "ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of

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*Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, (Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) ("We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services *and resellers of such services.*") (emphasis added).

<sup>21</sup> See *Lifeline and Link Up Reform Order* at ¶ 367.

minutes that do not distinguish between toll and non-toll calls.”<sup>22</sup> Nonetheless, AirVoice’s offerings inherently allow Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid, or pay-as-you-go, basis. AirVoice’s service, moreover, is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same.

## **2. Broadband Internet Access Services**

Broadband Internet access service (“BIAS”) is a supported service as of December 2, 2016. The FCC has stated that BIAS consists of the ability for a user to receive “the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service.”<sup>23</sup> AirVoice provides BIAS to low-income consumers via resale of T-Mobile and AT&T services.

### **D. AirVoice Requests Designation Throughout Its Service Area**

AirVoice is not a rural telephone company as defined in Section 153(37) of the Act (47 U.S.C. § 153(37)). Accordingly, AirVoice is required to describe the geographic area(s) within which it requests designation as an ETC. AirVoice requests ETC designation that is statewide in scope to allow the Company to provide Lifeline service wherever its underlying, facilities-based providers have wireless coverage. AirVoice understands that its service area overlaps with rural carriers in Missouri, but maintains that the public interest factors described below justify its designation in these carriers’ service areas, especially because it seeks ETC designation solely to utilize USF funding to provide Lifeline service to qualified low-income consumers. AirVoice is not eligible for and does not seek Link-Up or high-cost support.

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<sup>22</sup> See *id.* at ¶ 49.

<sup>23</sup> See 47 C.F.R. § 8.2(a).

Therefore, designation of AirVoice as an ETC will cause no growth in the high-cost portions of the USF and will not erode high-cost support from any rural telephone company. In fact, the FCC has determined that “[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”<sup>24</sup> While federal rules (47 U.S.C. §§ 160, 214(e)(5) and 47 C.F.R. § 54.207(b)) require that the service area of an ETC conform to the service area of any rural telephone company serving the same area (the “service area conformance” requirement), the FCC’s *Lifeline and Link Up Reform Memorandum Opinion and Order* (FCC 13-44 released April 15, 2013) authorized forbearance from the service area conformance requirements with respect to carriers seeking to provide Lifeline-only service.<sup>25</sup> In light of this forbearance, the Commission has the authority to designate ETCs such as AirVoice in rural areas without concern for the service area conformance requirement.<sup>26</sup>

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<sup>24</sup> 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).

<sup>25</sup> 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).

<sup>26</sup> See 47 C.F.R. § 54.207(c).

**E. AirVoice Will Advertise the Availability of Supported Services**

AirVoice will advertise the availability and rates for the services described above using media of general distribution as required by 47 C.F.R. § 54.201(d)(2). AirVoice will comply with the FCC's rules regarding information to be included in marketing materials, including FCC rule section 54.405(c). Specifically, AirVoice's marketing materials will state, in easily understood language, that: (i) the service is a Lifeline service; (ii) Lifeline is a government assistance program; (iii) the service may not be transferred to someone else; (iv) consumers must meet certain eligibility requirements before enrolling in the Lifeline program; (v) the Lifeline program permits only one Lifeline discount per household; (vi) documentation is necessary for enrollment; and (vii) AirVoice is the provider of the services. Additionally, AirVoice will disclose the company name under which it does business and the details of its Lifeline service offerings in any Lifeline-related marketing and advertising.

AirVoice will engage in advertising campaigns specifically targeted to reach those likely to qualify for Lifeline service, promoting the availability of cost-effective wireless services to this neglected consumer segment. AirVoice may also promote the availability of its Lifeline offering by distributing brochures at various state and local social service agencies, and may partner with nonprofit assistance organizations in order to inform customers of the availability of its Lifeline service. In addition, AirVoice intends to utilize its network of retail partners (once established) to help promote the availability of its Lifeline plans, especially retail outlets that are frequented by low-income consumers. AirVoice will provide retail vendors with signage to be displayed where Company products are sold, and with printed materials describing the Company's Lifeline program.

**V. AIRVOICE SATISFIES THE ADDITIONAL REQUIREMENTS FOR ETC DESIGNATION UNDER 47 C.F.R. § 54.202(a)**

AirVoice hereby provides the additional information and certifications required for carriers seeking ETC designation as set forth in 47 C.F.R. § 54.202(a).

**A. Service Commitment Throughout the Proposed Designated Service Area**

AirVoice will provide service in Missouri by reselling service which it obtains from its Underlying Carriers. The Underlying Carriers' networks are operational and largely built out. Thus, AirVoice will be able to commence offering its Lifeline service to all locations served by its Underlying Carriers very soon after receiving approval from the Commission.

In accordance with 47 C.F.R. § 54.202(a)(1)(i), and as verified in attached Exhibit 1, AirVoice commits to comply with the service requirements applicable to the low-income support that it receives. AirVoice will comply with the FCC's *Fifth Report and Order* once the rule changes set forth therein become effective.<sup>27</sup> Pursuant to 47 C.F.R. § 54.202(a)(1)(ii), a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC.

**B. Ability to Remain Functional in Emergency Situations**

In accordance with 47 C.F.R. § 54.202(a)(2), AirVoice has the ability to remain functional in emergency situations. As discussed, AirVoice will utilize the extensive and well-established T-Mobile and AT&T network and facilities to provide its Lifeline services. The Company understands that the Underlying Carriers' networks have access to a reasonable amount of back-up power to ensure functionality without an external power source, are able to reroute traffic

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<sup>27</sup> The order is effective January 27, 2020, except for section 54.406(b) [*Prohibition of commissions for enrollment representatives*], which is effective February 25, 2020, and section 54.406(a) [*Enrollment representative registration*], which is effective March 26, 2020. Revisions to Sections 54.404(b)(12) [*relating to not enrolling/claiming a subscriber unless they are verified to be alive*] and 54.410(f) [*changes to recertification*] are delayed and the FCC will publish a document announcing the effective date.

around damaged facilities, and are capable of managing traffic spikes resulting from emergency situations. Indeed, its Underlying Carriers have repeatedly certified to the FCC that its network functions in emergency situations. The Underlying Carriers provide the same functionality to AirVoice and its customers as they provide to their own customers.

**C. Commitment to Consumer Protection and Service Quality**

In accordance with 47 C.F.R. § 54.202(a)(3), an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards, and wireless applicants may satisfy this requirement with a commitment to comply with the Cellular Telecommunications and Internet Association's ("CTIA") Consumer Code for Wireless Service. AirVoice hereby commits to comply with the CTIA Consumer Code for Wireless Service.

**D. AirVoice is Financially and Technically Capable**

In accordance with 47 C.F.R. § 54.202(a)(4), AirVoice is financially and technically capable of providing Lifeline-supported services. AirVoice is currently offering Lifeline service ten (10) jurisdictions. AirVoice does not and will not rely exclusively on USF disbursements to operate. In addition, AirVoice's financial and technical capabilities to provide service are demonstrated by its performance over twenty years in the wireless industry, and in the Lifeline program since 2012. Furthermore, the senior management of AirVoice has great depth in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to AirVoice (see Exhibit 3). AirVoice will be providing resold wireless service, and therefore will also rely upon the managerial and technical expertise of its Underlying Carriers.



### **E. Terms and Conditions of Proposed Lifeline Offering**

AirVoice has the ability to provide all services supported by the universal service program, as detailed in 47 C.F.R. § 54.101(a), throughout Missouri. AirVoice intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice and broadband usage. AirVoice commits that its Lifeline-supported voice services will meet or exceed the minimum service standards set forth in 47 C.F.R. § 54.408, including as such standards are updated going forward. AirVoice’s Lifeline-supported broadband services will also meet the minimum service standards set forth in 47 C.F.R. § 54.408 for mobile broadband internet access services, including for service speed and data usage allowance, as such standards are updated going forward. To the extent AirVoice provides devices for use with Lifeline-supported broadband service, such devices will meet the equipment requirements set forth in 47 C.F.R. § 54.408(f), and AirVoice will not impose an additional or separate tethering charge for mobile data usage below the minimum standard.

Attached hereto as Exhibit 4 is a summary table of the Company’s proposed Lifeline service offerings, showing that Lifeline customers will receive 1,000 voice minutes, unlimited text messages, and 4.5 gigabytes (GB) of data per month at a net cost of \$0.00 after application of Lifeline support.<sup>28</sup> Customers will be able to purchase additional minutes or data as needed. All plans will include nationwide domestic long-distance at no extra per-minute charge, and AirVoice will not assess any usage for access to its free customer services (611). Emergency (911) calls will be free, regardless of service activation or availability of minutes, and will not count against the customer’s airtime. The Company’s Lifeline offering will provide feature-rich mobile

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<sup>28</sup> The current rate plan is based upon the 2020 FCC minimum service standards (“MSS”) and will change based on the future MSS.

connectivity for qualifying subscribers without the burden of credit checks or service contracts. AirVoice's prepaid offering will be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

**F. AirVoice Will Comply with the Lifeline Certification and Verification Requirements**

Customers interested in obtaining information on the Lifeline program will be directed to a toll-free telephone number and to the Company's website, which will contain information regarding the Company's Lifeline service plans, including a description of the Lifeline program and eligibility criteria. Customers must then apply directly through the National Lifeline Eligibility Verifier ("National Verifier"), which they may do online or by submitting all required documentation to the National Verifier by mail. Customers may download a copy of the application form from the Internet (either from the National Verifier's or Company's website) or request that a copy be mailed to them. AirVoice utilizes the standard Lifeline application forms as required by FCC rules, and thus complies with the disclosure and information collection requirements in 47 C.F.R. § 54.410(d).<sup>29</sup> AirVoice will certify and verify initial and continued consumer eligibility in accordance with 47 C.F.R. § 54.410, and will notify the applicant that the prepaid service must be personally activated by the subscriber and the subscriber must use their service every thirty (30) days. AirVoice further confirms that it will not provide a consumer with an activated device and will not activate a Lifeline service unless or until it has confirmed that the consumer is a qualifying low-income household pursuant to 47 C.F.R. § 54.409, and completed

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<sup>29</sup> *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>).

the required eligibility determination and certification requirements of 47 C.F.R. §§ 54.410, 54.404-54.405. Processing of consumers' applications and determination of eligibility will be performed by the National Verifier.

**G. Prevention of Waste, Fraud and Abuse**

The FCC has taken steps to further curb abuse in the Lifeline program by establishing the National Verifier, which transfers the responsibility of eligibility determination away from Lifeline providers. AirVoice will rely on the National Verifier to determine initial and ongoing eligibility of Missouri Lifeline subscribers. The National Verifier queries the National Lifeline Accountability Database ("NLAD") for every enrollment to determine whether a prospective subscriber is currently receiving a Lifeline service from AirVoice or any other ETC, and whether anyone else living at the prospective subscriber's residential address is currently receiving Lifeline service. AirVoice thus complies with the requirements of section 54.404 of the FCC's rules. In addition, Company personnel emphasize the "one Lifeline service per household" restriction in their direct sales contacts with potential customers.

Consistent with federal regulations, the Company will not seek USF reimbursement for new subscribers until they have personally activated the service, either by initiation and/or actual use of the service, and will de-enroll any subscriber that has not used the Company's Lifeline service as set forth in 47 C.F.R. § 54.407(c)(2). An account will be considered active if the authorized subscriber establishes usage, as "usage" is defined by 47 C.F.R. § 54.407(c)(2), during the specified timeframe, currently a period of thirty (30) days, or during the notice period set forth in 47 C.F.R. § 54.405(e)(3), currently a period of fifteen (15) days. In accordance with 47 C.F.R. § 54.405(e)(3), AirVoice will provide the subscriber advanced notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the notice

period will result in service termination for non-usage. Customers that have been deactivated may participate in the Company's Lifeline service in the future by reapplying and re-establishing eligibility.

To further protect the integrity of the USF, AirVoice contracts with a third party Lifeline service bureau, currently CGM, LLC, to edit all subsidy request data. CGM will process and validate the Company's subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from the Company will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) Inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described above, AirVoice ensures that it does not over-request from support funds.

## VI. INFORMATION REQUIRED BY 20 CSR 4240-31.016

Pursuant to 20 CSR 4240-31.016(2)(A) and 20 CSR 4240-2.060, Exhibit 1 provides the required affidavit under oath and the required Company information was provided in Section II (and Exhibit 7) of this Application. To the best of the Company's knowledge, AirVoice does not have any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates within the past three (3) years, and no annual report or assessment fees are overdue.

AirVoice further provides the following information in accordance with 20 CSR 4240-31.016(2)(B):

1. Identify any individual or entity having a ten percent (10%) or more ownership interest in the Applicant.

Henry Do, indirectly owns 100% as set forth above

2. Identify all officers, directors, and other persons, regardless of title, who fill the role of officer or director of the company.

Henry Do, CEO

3. Identify any company sharing common ownership or management with the applicant that has ever received funds from the federal USF or any state universal service fund.

Cintex Wireless, LLC and NewPhone Wireless, LLC, as set forth above

4. Provide the details of any matter brought in the last ten (10) years by any state or federal regulatory or law enforcement agency against any of the individuals, entities, managers, officers, directors of other companies sharing common ownership or management with the applicant involving fraud, deceit, perjury, stealing, or the omission or misstatement of material fact in connection with a commercial transaction;

None

5. The website containing information about the AirVoice service and rates:

<https://airvoicewireless.com> and <https://airtalkwireless.com>.

AirVoice commits to comply with the ETC requirements set forth in 20 CSR 240-31.015 and to notify the Commission of any changes to company contact information. To the best of the Company's knowledge, AirVoice is compliant with contribution obligations to the federal USF. AirVoice does not currently intend to seek support from the Missouri USF or participate in the Disabled program, but reserves the right to seek such participation and support in the future.

## **VII. DESIGNATION OF AIRVOICE AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST**

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.<sup>30</sup> Designation of AirVoice as an ETC in Missouri will further that public interest. Whether because of financial constraints, poor credit history, or intermittent employment, many low-income consumers often lack the countless choices available to most consumers and thus have yet to reap the full benefits of the intensely competitive wireless market.

The instant request for ETC designation must be examined in light of the Act's goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. The FCC has in recent years expanded the Lifeline program to cover broadband services, noting that “Only half of all households in the lowest income tier subscribe to a broadband service and 43 percent say the biggest reason for not subscribing is the cost of the service,” and “Of the low income consumers

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<sup>30</sup> *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

who have subscribed to mobile broadband, over 40 percent have to cancel or suspend their service due to financial constraints.”<sup>31</sup> Given this context, designating AirVoice as an ETC would significantly benefit low-income consumers eligible for Lifeline services in Missouri—the intended beneficiaries of universal service.

#### **A. Advantages of AirVoice’s Service Offering**

AirVoice offers a unique, easy to use, competitive, and highly affordable wireless telecommunications service, which benefits qualified consumers who either have no other service alternatives or who choose a wireless prepaid solution in lieu of more traditional service. The public interest benefits of AirVoice’s wireless service include larger calling areas (as compared to traditional wireline carriers), the convenience and security afforded by mobile service, and a generous amount of voice and broadband access included without cost (after application of the Lifeline support), as well as either a free SIM card or handset, and free access to caller ID, call waiting, and Voicemail features, and access to 911 services regardless of the number of voice minutes remaining on the Lifeline consumer’s plan. These no cost to consumer services and low-cost minutes are an invaluable resource for cash-strapped consumers, and the prepaid nature of the service also provides an alternative for “unbanked” consumers.

AirVoice’s Lifeline offerings compare favorably with those of other competitive ETCs, and provide Lifeline customers with voice minutes, unlimited text messages, and a data allotment (meeting the broadband minimum service standards), at no net cost to the customer after application of Lifeline support. AirVoice’s prepaid wireless service is likely to be an especially attractive option for low-income consumers because it alleviates customer concerns regarding hidden costs, varying monthly charges and long-term contract issues.

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<sup>31</sup> See *Lifeline Modernization Order* ¶ 2.

In today's market, consumers, including qualified Lifeline customers, view the portability and convenience of wireless service not as a luxury, but as a necessity. Mobile service allows children to reach their parents wherever they may be, allows a person seeking employment greater ability to be contacted by potential employers, and provides end users with the ability to contact emergency service providers regardless of location. Mobile Lifeline service is essential not only for access to telephone service, but also to bridging the digital divide through provision of mobile broadband usage which is critical to full participation in modern society.

Without question, prepaid wireless services have become essential for low-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents. Providing AirVoice with the authority necessary to offer discounted Lifeline service to those without wireless service—or most in danger of losing service altogether—undoubtedly promotes the public interest.

## **B. The Benefits of Competitive Choice**

The FCC has acknowledged the benefits to consumers of being able to choose from among a variety of telecommunications service providers for more than three decades.<sup>32</sup> Increasing customer choice promotes competition and innovation, thus spurring other carriers to target low-income consumers with service offerings tailored to their needs, ultimately resulting in improved services to consumers. Designation of AirVoice as an ETC will help ensure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.<sup>33</sup> Introducing AirVoice into the market as an additional wireless ETC provider will afford low-income Missouri

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<sup>32</sup> See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

<sup>33</sup> See 47 U.S.C. § 254(b)(1).



residents a wider choice of providers and available services while creating a competitive marketplace as ETCs compete for a finite number of Lifeline-eligible customers. Increasing the competitive marketplace of providers has the potential to effectively increase the penetration rate and reduce the number of individuals not connected to the PSTN.

### **C. Impact on the Universal Service Fund**

With Lifeline, ETCs only receive support for customers they obtain. The amount of support available to an eligible subscriber is exactly the same whether the support is given through a company such as AirVoice or the Incumbent LEC operating in the same service area. The number of persons eligible for Lifeline support is the same regardless of the number of ETCs; thus, AirVoice will only increase the amount of USF Lifeline funding in situations where it obtains Lifeline customers not already enrolled in another ETC's Lifeline program. By implementing the safeguards set forth in the *Lifeline and Link Up Reform Order* and utilizing the NLAD and National Verifier, the likelihood that AirVoice's customers are not eligible or are receiving duplicative support either individually or within their household is greatly minimized. AirVoice's ability to increase the Lifeline participation rate of qualified low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service, and thus any incremental increases in Lifeline expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers.

## VIII. CONCLUSION

Based on the foregoing, designation of AirVoice Wireless, LLC d/b/a AirTalk Wireless as an Eligible Telecommunications Carrier in the State of Missouri complies with the requirements of Section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, AirVoice Wireless, LLC d/b/a AirTalk Wireless respectfully requests that the Commission promptly designate AirVoice Wireless, LLC d/b/a AirTalk Wireless as an Eligible Telecommunications Carrier in the State of Missouri for the purpose of participating in the Lifeline program.

Respectfully submitted,

*/s/ Lance J.M. Steinhart*

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Lance J.M. Steinhart  
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](mailto:lsteinhart@telecomcounsel.com)

*/s/ William D. Steinmeier*

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William D. Steinmeier, Mo Bar No. 25689  
William D. Steinmeier, P.C.  
2031 Tower Drive  
Jefferson City, MO 65109  
(573) 659-8672 (Phone)  
[wds@wdspsc.com](mailto:wds@wdspsc.com) (E-mail)

*Attorneys for AirVoice Wireless, LLC  
d/b/a AirTalk Wireless*

March 21, 2022

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been served electronically on the PSC Staff Counsel's office (at [staffcounsel@psc.mo.gov](mailto:staffcounsel@psc.mo.gov)) and on the Office of the Public Counsel (at [opcservice@opc.mo.gov](mailto:opcservice@opc.mo.gov)) on this 21<sup>st</sup> day of March, 2022.

*/s/ William D. Steinmeier*

\_\_\_\_\_  
William D. Steinmeier

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**EXHIBIT 1**

*(Attached in separate pdf file.)*

**EXHIBIT 2**

**FCC-Approved Revised Compliance Plan**

*(Attached in separate pdf file.)*

**EXHIBIT 3**

**Key Management Bios**

*(Attached in separate pdf file.)*

## **EXHIBIT 4**

### **Proposed Lifeline Offering**

#### **1,000 Minutes & 4.5 GB Data**

1,000 anytime minutes per month  
Unlimited text messaging  
4.5 GB data per month

Net cost to Lifeline customer: **\$0**

#### **ADDITIONAL AIRTIME**

Available for purchase at [www.airtalkwireless.com](http://www.airtalkwireless.com)

#### **All packages include:**

- Free calls to SafetyNet Customer Service
- Free calls to 911 emergency services
- Free access to Voicemail, Caller-ID, and Call Waiting features
- Voice minutes may be used for Domestic Long Distance at no extra cost



**Exhibit 5**

**Secretary of State Authorizations**

*(Attached in separate pdf file.)*