

# TENNESSEE PUBLIC UTILITY COMMISSION

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(615) 770-6896



Andrew Jackson State Office Bldg,  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243-0001

September 25, 2024

H. Henry Shi, Esq.  
HWG LLP  
1919 M Street NW, Suite 80  
Washington, DC 20036-3537

Electronically Filed in TPUC Docket Room  
on September 25, 2024 at 11:18 a.m.

VIA EMAIL to [hshi@hwglaw.com](mailto:hshi@hwglaw.com)

Re: *Application of Tag Mobility, d/b/a Tag Mobile for Designation as an Eligible Telecommunications Carrier in Tennessee*, TPUC Docket No. 24-00068

Dear Mr. Shi:

Commission Staff has conducted a preliminary review of the Petition in the above referenced docket and determined that additional items are needed in order to have a complete record for submission to the Commission for consideration. I have listed below some of the items that are needed from the legal perspective.

The following items require additional information:

1. The Commission requires sworn testimony to accompany the Petition concerning the Company's qualifications to be designated as an eligible telecommunications carrier. While the Verification page signed by Tag Mobile's CEO, Henry Do, may be sufficient in some jurisdictions, the Tennessee Public Utility Commission has indicated that an Affidavit or Pre-Filed Testimony is required. I have attached a copy of such an Affidavit from a recent docket.
2. Tennessee law requires that a corporate entity or limited liability company must be represented by counsel admitted to practice in Tennessee in a contested case matter. Because the ETC designation requires a hearing for the consideration of the "legal rights, duties or privileges" of the applying party, Tennessee law deems an application for ETC designation a contested case. As a result, the Commission requires that a Tennessee licensed attorney, or an attorney admitted to practice pro hac vice, enter an appearance on behalf of Tag Mobile. I have attached a copy of a Notice published by the Commission with further explanation of the issue.

Telephone (615) 741-2904, Toll-Free 1-800-342-8359, Facsimile (615) 741-5015

[www.tn.gov/tpuc](http://www.tn.gov/tpuc)

[www.facebook.com/tennesseepuc](https://www.facebook.com/tennesseepuc)

Thank you in advance for your assistance in addressing these issues so that the docket can go forward. Please provide the information requested, or a request for an extension, within thirty (30) days of the date of this letter. If this information is not provided by this date, this docket may be subject to dismissal.

Sincerely,



Aaron J. Conklin  
Senior Counsel

Enclosures: Affidavit Example and Notice on Attorney Representation

**BEFORE THE  
TENNESSEE PUBLIC UTILITY COMMISSION**

IM Telecom, LLC  
d/b/a Infiniti Mobile  
Petition for Designation as an Eligible  
Telecommunications Carrier


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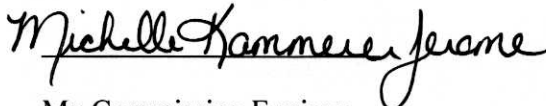
**AFFIDAVIT**

I, Jason Welch, President of IM Telcom, LLC d/b/a Infiniti Mobile ("INFINITI"), hereby state upon oath and affirmation of belief and personal knowledge that the following statement is true to the best of my knowledge and belief. INFINITI satisfies each of the below listed requirements:

- 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 Tennessee Public Utility Commission ("Commission"), to designate ETC status for federal universal service purposes and authorizes the Commission to designate wireless ETCs.<sup>1</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 forborne from the "own facilities" requirement.
- Applicants also must commit to advertise the availability and rates of such services.<sup>2</sup>

  
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Jason Welch, President  
IM Telecom, LLC  
d/b/a Infiniti Mobile

Subscribed and sworn before me, this  
11th day of December, 2023.



(SEAL)

**Michelle Jerome**

**Notary Public**

**State of New Jersey**

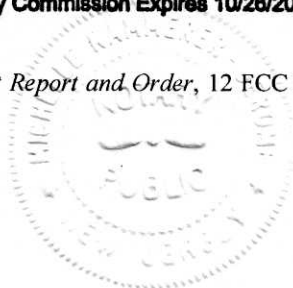
**My Commission Expires 10/28/2028**

My Commission Expires:

10/26/2026

<sup>1</sup> See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) ("USF Order").

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



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Electronically Filed in TPUC Docket  
Room on August 28, 2023 at 4:55 p.m.

August 28, 2023

## **NOTICE CONCERNING ATTORNEY REPRESENTATION IN CONTESTED CASE PROCEEDINGS BEFORE THE COMMISSION**

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Notice is hereby given that, in accordance with Tennessee law, representation by a Tennessee licensed attorney is required for any corporation or limited liability company appearing as a party in any contested case proceeding before the Commission. The Tennessee Uniform Procedures Act, Tenn. Code Ann. § 4-5-101 *et seq.* defines a contested case as:

. . . a proceeding, including a declaratory proceeding, in which the legal rights, duties or privileges of a party are required by any statute or constitutional provision to be determined by an agency after an opportunity for a hearing. Such proceeding may include rate making; price fixing; granting of certificates of convenience and necessity; the making, review or equalization of tax assessments; the granting or denial of licenses, permits or franchises where the licensing board is not required to grant the licenses, permits or franchises upon the payment of a fee or the finding of certain clearly defined criteria; and suspensions of, revocations of, and refusals to renew licenses. An agency may commence a contested case at any time with respect to a matter within the agency's jurisdiction.<sup>1</sup>

Contested cases before the Commission include, but are not limited to, rate cases, petitions for a certificate of public convenience and necessity ("CCN"), petitions to amend a CCN, petitions to provide competing local telecommunications services, applications for certificate to provide operations services and/or resell telecommunication services, and show cause proceedings.

In administrative law matters under the Uniform Administrative Procedures Act, a corporate party may participate in a hearing by a duly authorized representative.<sup>2</sup> The Tennessee Court of Appeals differentiates between "informal, information gathering proceeding[s]" wherein

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<sup>1</sup> Tenn. Code Ann. § 4-5-102(3) (2023).

<sup>2</sup> Tenn. Code Ann. § 4-5-305(a).

a non-attorney may be a corporate party participant pursuant to Tenn. Code Ann. § 4-5-305(a), and “formal adversarial proceedings as in a contested case proceeding” in which a non-attorney may not represent a corporate party.<sup>3</sup>

It is well settled Tennessee law that a corporation may not act *pro se* in contested legal matters, nor may it be represented by an officer or other non-lawyer agent. Tennessee courts have held that allowing a corporation, or an officer on behalf of a corporation, to sign pleadings would result in the unauthorized practice of law.<sup>4</sup> Preparation and filing of documents that initiate contested case proceedings require the professional judgment of an attorney and as such, is the practice of law.<sup>5</sup> As such, all contested case proceedings before the Commission in which a business entity is participating as a party must be represented by legal counsel, as discussed in this notice.

**FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:**

  
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Kelly Cashman Grams, General Counsel

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<sup>3</sup> *Tenn. Envtl. Council v. Water Quality Control Bd.*, 254 S.W.3d 396, 407 (Tenn. Ct. App. 2007).

<sup>4</sup> *Old Hickory Eng'g & Mach. Co., Inc. v. Henry*, 937 S.W.2d 782, 785-786 (Tenn. 1996).

<sup>5</sup> *Id.*