

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Hankins Information Technology)

Petition for Designation as an)
Eligible Telecommunications Carrier)
Pursuant to Section 214(e)(6) of the Act)

WC Docket No. 09-197

**PETITION OF HANKINS INFORMATION TECHNOLOGY
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

Hankins Information Technology (FRN 0027344498) (“HIT”), a sole proprietorship, respectfully requests designation by the Federal Communications Commission (“Commission”) as an eligible telecommunications carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934 (47 U.S.C. § 214(e)(6)) and Sections 54.201 and 54.202 of the Commission’s rules (47 CFR §§ 54.201 and 54.202). HIT is the winning bidder in the Connect America Fund (CAF) Phase II Auction (Auction 903) for 106 specified locations within the State of California.¹ As such, HIT is required to obtain ETC status within 180 days from the award; i.e., February 25, 2019. (47 CFR § 54.315(b)(5).) Accordingly, HIT requests expeditious action on this Petition.

I. INTRODUCTION AND SUMMARY

HIT provides wireless Internet access services in California as a sole proprietorship, owned by James Hankins. HIT currently serves accounts in and near the City of Gilroy, in Santa Clara County, California. HIT will expand its system using CAF support to provide facilities-based high-speed broadband Internet access services and Internet Protocol (“IP”) based voice services to customers in remote, rural areas of San Benito, Santa Clara, and Santa Cruz Counties, California. A list of the locations for which HIT seeks ETC designation is set forth in Exhibit A.

As discussed in more detail below, the Commission has authority to grant the requested ETC designation to HIT under 47 U.S.C. § 214(e)(6), and HIT satisfies all of the requirements for such designation in connection with CAF Phase II funding.

II. THE COMMISSION HAS AUTHORITY TO GRANT ETC DESIGNATION TO HIT

Under 47 U.S.C. § 214(e)(6), the Commission has authority to issue ETC designation in the case of common carrier that “is not subject to the jurisdiction of a State commission,” which is the case here. As provided by California Public Utilities Code (“PU Code”) § 710, “the [California Public Utilities Commission or “CPUC”] shall not exercise regulatory jurisdiction or

¹ See, *Connect America Fund Phase II Auction (Auction 903) Closes, Winning Bidders Announced, FCC Form 683 Due October 15*, Public Notice, AU Docket No. 17-182, WC Docket No. 10-90, DA 18-887, (WTB/WCB rel. August 28, 2018) (“Closing Public Notice”).

control over Voice over Internet Protocol and Internet Protocol enabled services^[2] except as required or expressly delegated by federal law or expressly directed to do so by statute or as set forth by subdivision (c). In the event of a requirement or delegation referred to above, this section does not expand the [CPUC's] jurisdiction beyond the scope of that requirement or delegation." The provisions of subdivision (c) to that section do not apply, here, and there is no other provision of California law specifically authorizing the CPUC to exercise relevant jurisdiction over HIT or its services. Accordingly, the Commission is authorized to grant ETC status to HIT.³

In light of the requirement that HIT submit certification within 180 days of the Closing Public Notice, HIT respectfully requests that the Commission exercise its authority under 47 U.S.C. § 214(e)(6) and grant ETC status to HIT for the designated census blocks without delay.

III. HIT MEETS THE STATUTORY AND REGULATORY REQUIREMENTS TO BE DESIGNATED AS AN ETC

As demonstrated below, HIT meets the requirements of 47 U.S.C. § 214(e)(6) and the Commission's rules for designation as an ETC for purposes of receiving CAF Phase II support.

² PU Code § 239 defines "Voice or Internet Protocol" or "VoIP" as "voice communications services that does all of the following: (A) Uses Internet Protocol or a successor protocol to enable real-time, two-way voice communication that originates from, or terminates at, the user's location in Internet Protocol or successor protocol. (B) Requires a broadband connection from the user's location. (C) Permits a user generally to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network." "Internet Protocol enabled service" or IP enabled service" is defined by that section as "any service, capability, functionality, or application using existing Internet Protocol, or any successor Internet Protocol, that enables an end user to send or receive a communication in existing Internet Protocol format, or and successor Internet Protocol format, through a broadband connection, regardless of whether the communication is voice, data, or video."

³ Petitioner has been advised that a duly authorized letter from the CPUC confirming its lack of authority to designate Petitioner as an ETC in California is being prepared. Petitioner will supplement the record with a copy of the CPUC letter once it is received.

A. HIT Will Operate as a Common Carrier

HIT will provide interconnected VoIP service on a common carrier basis within the area where it is designated as an ETC. Therefore, HIT certifies that it is a common carrier under 47 U.S.C. § 214(e) (1) and (6).⁴

B. HIT Will Offer the Services Supported by the Federal Universal Service Support Mechanisms

1. *Voice Telephony.*⁵ HIT will offer interconnected VoIP service on a stand-alone basis using a managed voice solution through a third-party vendor, currently planned to be Momentum Telecom, at rates comparable to those available in urban areas.⁶ HIT will be legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting related universal service requirements. HIT's voice service will include unlimited local and domestic U.S. toll calling with no usage charges and access to emergency service via 911 or E-911. As HIT will provide local and domestic U.S. toll usage on an unlimited basis, with no usage charges, it will not need to provide toll limitation services to qualifying low-income customers.

2. *Broadband Internet Access Service.*⁷ HIT will offer broadband Internet access service providing the capability to transmit and receive data by radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service.

⁴ See, Exhibit B, Declaration of James Hankins ("Hankins Declaration").

⁵ 47 CFR § 54.101(a)(1); 47 CFR § 54.101(b).

⁶ See, *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, WC Docket Nos. 09-197, 10-90, DA 18-714, (WCB rel. July 14, 2018) ("ETC Public Notice"), p. 4 ("a broadband provider may satisfy its voice obligation by offering . . . a managed voice solution (including VoIP) through a third party vendor").

⁷ 47 CFR § 54.101(a)(2).

C. HIT Will Comply with Applicable Requirements Pertaining to Provision of Services Supported by the Federal Universal Service Support Mechanisms

1. *Compliance with Service Requirements.*⁸ HIT certifies that it will provide the supported services consistent with the obligations applicable to CAF Phase II support recipients, including, without limitation, offering usage capacity and rates reasonably comparable to comparable offerings in urban areas.⁹ HIT also commits to offer Lifeline discounts to qualifying low-income customers services within the locations for which HIT receives CAF Phase II support, and to meet any additional requirements applicable to high-cost ETCs.

2. *Financial and Technical Capability.* HIT's financial and technical capability will be established in the information and certifications submitted in its FCC Form 683 long form application for CAF Phase II support. HIT hereby incorporates such information and certifications by this reference.¹⁰

3. *Service and Performance Quality.*¹¹ HIT certifies that it will comply with the service and performance quality requirements for CAF Phase II support. By this reference, HIT incorporates the relevant information and certifications that it will provide in its FCC Form 683 long form application for CAF Phase II support.¹²

4. *Deployment.*¹³ HIT certifies that it will provide service at the locations for which it is awarded CAF Phase II support consistent with applicable deployment obligations, including annual reporting of service to geocoded locations and certification of compliance with

⁸ 47 CFR § 54.202(a)(1)(i).

⁹ See, 47 CFR § 54.101(b); 47 CFR § 54.101(c), 47 CFR § 54.309.

¹⁰ See, ETC Public Notice , p. 5.

¹¹ 47 CFR § 54.202(a)(1)(i).

¹² See, ETC Public Notice , p. 5.

¹³ 47 CFR § 54.202(a)(1)(ii).

benchmark milestones. Accordingly, HIT qualifies for the Commission's waiver of a requirement to submit a five-year service improvement plan with this Petition.¹⁴

5. *Ability to Remain Functional in Emergency Situations.*¹⁵ HIT certifies that its wireless network will have the ability to remain functional in emergency situations. HIT will have 8 hours of back-up battery power in place and will deploy portable generators, as necessary, ensure on-going functionality, without an external power source. In addition, HIT's network will be constructed with built-in redundancy, including mesh networking and redundant traffic routing, to enable routing traffic around damaged facilities and handling spikes resulting from emergency situations, both on-net and off-net.

6. *Consumer Protection.*¹⁶ HIT certifies that it will satisfy all service quality and other consumer protection standards applicable to CAF Phase II support recipients.

D. HIT Will Provide Services Using its Own Facilities¹⁷

HIT will be a facilities-based broadband Internet access and VoIP services provider, using HIT's wireless facilities to establish "last-mile" connections to end users. Backhaul facilities from HIT's transmitter locations will either be owned by HIT or leased by hit from third-party carriers. As noted, HIT plans to provide interconnected VoIP to end users pursuant to underlying arrangements with a third party vendor.

E. HIT Will Provide Service Throughout Its Designated ETC Service Area

HIT commits to providing the supported services, including stand-alone voice services, throughout the ETC area for which designations is requested in this Petition, namely the locations identified in Exhibit A.

¹⁴ See, ETC Public Notice, p. 4.

¹⁵ 47 CFR § 54.202(a)(2).

¹⁶ 47 CFR § 54.202(a)(1)(ii)(3).

F. HIT Will Advertise the Availability of Its Services and Charges Using Media of General Distribution¹⁸

HIT will advertise the availability of, and charges for, its supported service offerings using media of general distribution, and will undertake outreach activities to increase consumer awareness of its service offerings, consistent with all applicable requirements. Such methods will include digital advertising, physical signage, door hangars, and direct mailings, as well as newspaper advertisements and other methods.

G. Public Interest¹⁹

The Commission has determined that participation and success in the CAF Phase II bidding and application process serves to demonstrate that participants have the ability to meet their public interest obligations, and that the process serves to enable the Commission to conduct a suitable cost-benefit analysis.²⁰ Therefore, no further demonstration that granting this Petition will serve the public interest is required.²¹

IV. ANTI-DRUG ABUSE CERTIFICATION

Neither Petitioner nor James Hankins, individually or as sole proprietor of Petitioner, the sole parties to this Petition, is subject to a denial of federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, as implemented in section 1.2002 of the Commission's rules (47 CFR § 1.2002).

¹⁷ 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d).

¹⁸ 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d).

¹⁹ 47 CFR § 202(b)

²⁰ See, ETC Public Notice, p. 6.

²¹ Id.

Dated this 26th day of September 2018.

GOODIN, MACBRIDE
SQUERI & DAY, LLP
John L. Clark
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 765-8443
Facsimile: (415) 398-4321
E-Mail: jclark@goodinmacbride.com

By 

John L. Clark

Attorneys for Petitioner

DECLARATION OF JAMES HANKINS

I, James Hankins, state the following:

1. I have personal knowledge of the facts and information set forth in this Affidavit and I am competent to testify to those facts if called as a witness.

2. I am the owner and sole proprietor of Hankins Information Technology ("HIT"). I have read the Petition to which this Affidavit is attached. I have knowledge of the facts stated in the Petition and certify, to the best of my knowledge and belief, that those facts are true and that the information in the Petition is complete and accurate.

3. I certify, individually and as sole proprietor, that HIT is a common carrier under sections 214(e)(1) and 214(e)(6) of the Communications Act of 1934, as amended ("Act").

4. I commit, individually and as sole proprietor, that HIT will provide the services and functionalities required for designation as an Eligible Telecommunications Carrier ("ETC") in the locations described in the Petition.

5. I certify, individually and as sole proprietor, that HIT will meet all of the Commission's requirements for designation as an ETC under section 214(e)(6) of the Act.

6. As sole proprietor of HIT, I will be responsible for certifying HIT's use of federal high-cost support.

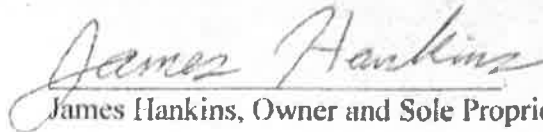
7. I certify, individually and as sole proprietor, that HIT will use the federal High-cost support that it receives only to provide, construct, upgrade, and maintain facilities and services for which the support is intended.

8. I certify, individually and as sole proprietor, that neither HIT nor I, individually or as sole proprietor of HIT, is subject to a denial of federal benefits pursuant to section 5301 of the

Anti-Drug Abuse Act of 1988, as implemented in section 1.2002 of the Commission's rules (47 CFR § 1.2002).

I declare under penalty of perjury under that the foregoing is true and correct.

Executed on September 26, 2018 at Gilroy, California,

A handwritten signature in cursive script that reads "James Hankins". The signature is written in dark ink and is positioned above a horizontal line.

James Hankins, Owner and Sole Proprietor of Hankins Information Technology

EXHIBIT A

LIST OF AREAS FOR WHICH HIT SEEKS ETC CERTIFICATION

block_id	item	state	county	census_id
60690001003063	CA-069-0001003	CA	San Benito	60690001003
60690001003064	CA-069-0001003	CA	San Benito	60690001003
60690001003117	CA-069-0001003	CA	San Benito	60690001003
60690001003130	CA-069-0001003	CA	San Benito	60690001003
60690002002003	CA-069-0002002	CA	San Benito	60690002002
60690002002004	CA-069-0002002	CA	San Benito	60690002002
60690002002010	CA-069-0002002	CA	San Benito	60690002002
60690002002016	CA-069-0002002	CA	San Benito	60690002002
60690002002017	CA-069-0002002	CA	San Benito	60690002002
60690002002018	CA-069-0002002	CA	San Benito	60690002002
60690002002019	CA-069-0002002	CA	San Benito	60690002002
60690002003000	CA-069-0002003	CA	San Benito	60690002003
60690002003037	CA-069-0002003	CA	San Benito	60690002003
60690008023009	CA-069-0008023	CA	San Benito	60690008023
60690008023017	CA-069-0008023	CA	San Benito	60690008023
60690008023020	CA-069-0008023	CA	San Benito	60690008023
60855033303002	CA-085-5033303	CA	Santa Clara	60855033303
60855121001000	CA-085-5121001	CA	Santa Clara	60855121001
60855121001007	CA-085-5121001	CA	Santa Clara	60855121001
60855121001011	CA-085-5121001	CA	Santa Clara	60855121001
60855121001027	CA-085-5121001	CA	Santa Clara	60855121001
60855121001035	CA-085-5121001	CA	Santa Clara	60855121001
60855121001040	CA-085-5121001	CA	Santa Clara	60855121001
60855121001049	CA-085-5121001	CA	Santa Clara	60855121001
60855121001051	CA-085-5121001	CA	Santa Clara	60855121001
60855121001058	CA-085-5121001	CA	Santa Clara	60855121001
60855121001060	CA-085-5121001	CA	Santa Clara	60855121001
60855121001070	CA-085-5121001	CA	Santa Clara	60855121001
60855121001076	CA-085-5121001	CA	Santa Clara	60855121001
60855121001079	CA-085-5121001	CA	Santa Clara	60855121001
60855121001083	CA-085-5121001	CA	Santa Clara	60855121001
60855122001002	CA-085-5122001	CA	Santa Clara	60855122001
60855122001004	CA-085-5122001	CA	Santa Clara	60855122001
60855122001025	CA-085-5122001	CA	Santa Clara	60855122001
60855122001062	CA-085-5122001	CA	Santa Clara	60855122001
60855122001081	CA-085-5122001	CA	Santa Clara	60855122001
60855122002008	CA-085-5122002	CA	Santa Clara	60855122002
60855122002010	CA-085-5122002	CA	Santa Clara	60855122002
60855122002055	CA-085-5122002	CA	Santa Clara	60855122002
60855122002069	CA-085-5122002	CA	Santa Clara	60855122002
60855123073020	CA-085-5123073	CA	Santa Clara	60855123073
60855125092003	CA-085-5125092	CA	Santa Clara	60855125092
60855125101048	CA-085-5125101	CA	Santa Clara	60855125101
60855126021041	CA-085-5126021	CA	Santa Clara	60855126021

2

60855135001443	CA-085-5135001	CA	Santa Clara	60855135001
60855135001446	CA-085-5135001	CA	Santa Clara	60855135001
60855135001450	CA-085-5135001	CA	Santa Clara	60855135001
60855135001473	CA-085-5135001	CA	Santa Clara	60855135001
60855135001483	CA-085-5135001	CA	Santa Clara	60855135001
60855135001484	CA-085-5135001	CA	Santa Clara	60855135001
60871233001000	CA-087-1233001	CA	Santa Cruz	60871233001
60871233001004	CA-087-1233001	CA	Santa Cruz	60871233001
60871233001021	CA-087-1233001	CA	Santa Cruz	60871233001
60871233001038	CA-087-1233001	CA	Santa Cruz	60871233001
60871233001046	CA-087-1233001	CA	Santa Cruz	60871233001
60871233001051	CA-087-1233001	CA	Santa Cruz	60871233001