Plains Internet, LLC (“Plains Internet”) as a CAF II support recipient, is seeking FCC designation as an Eligible Telecommunications Carrier (“ETC”) to serve the census blocks shown in exhibit A in the state of Texas. We are submitting documentation from the Public Utility Commission of Texas indicating that the state lacks authority to designate Eligible Telecommunications Carriers.

1. **INTRODUCTION & SUMMARY**

Plains Internet, LLC (“Plains Internet”) is a facilities-based telecommunications carrier located at 7519 Canyon Drive, Amarillo, TX 79110, that has been awarded CAFII support and seeks designations as an Eligible Telecommunications Carrier in Texas. The requested ETC designation will promote the public interest by providing underserved consumers a choice of a significant new facilities-based competitor in the marketplace. Plains Internet's entry into the market will create competitive pressure on all providers, resulting in a higher level of service quality and more competitive pricing and advantageous service options for underserved consumers in Texas. As discussed below, Plains Internet meets all statutory and regulatory prerequisites for ETC designation. Furthermore, the public interest would be greatly served by granting this petition, enabling Plains Internet to advance service in Texas by serving the basic and advanced communications needs of underserved consumers.

1. **BACKGROUND**

Plains Internet is a facilities-based, regional provider of competitively-priced wireless

VOIP, and data services. Plains Internet holds a Common Carrier Radio Operator's license issued by the Federal Communications Commission, Wireless Technology Bureau. Plains Internet LLC Has provided wireless internet service to over 3000 customers since March 2016. Plains Internet has deployed an advanced terrestrial fixed wireless telecommunications network capable of serving consumers basic and advanced communications needs.

1. **Service Requirements**

Plains Internet will offer all services that the Commission designates for high cost universal service support throughout our designated service areas either using our own facilities or a combination of our own facilities and resale of another carrier’s services. Plains Internet will advertise the availability of these services (and the charges thereof) using media of general distribution. Plains Internet will offer supported qualifying voice service using a combination of its own facilities and resale. Plains Internet will offer voice telephony as a standalone service throughout our designated service areas. Plains Internet will offer voice telephony services at rates that are reasonably comparable to urban rates. Plains Internet will be legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting universal service fund (USF)-related requirements. Accordingly, Plains Internet will satisfy its voice obligation by offering voice service through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor and will not simply rely on the availability of over the top voice options.

**IV. PLAINS INTERNET MEETS THE STATUTORY AND REGULATORY**

**PREREQUISITES FOR THE REQUESTED ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION**

As demonstrated herein, Plains Internet meets the requirements for designation as an ETC

Plains Internet:

1. Is a common carrier;

2. Will offer the services supported by the CAFII support mechanisms within its service areas.

3. Will use a combination of its own facilities and resale to provide the supported services;

4. Will provide all the supported services, throughout its designated service area;

5. Will advertise the availability of its universal service offerings and charges for such

offerings using media of general distribution;

6. Will meet the additional application requirements established by the FCC by:

a) certifying that it will comply with the minimum

service requirements applicable to the support that it receives;

b) demonstrating it is able to remain functional in emergency situations;

c) demonstrating it will satisfy consumer protection

and service quality standards;

d) has demonstrated through the CAFII application process that it is financially and technically capable of providing service in compliance with Commission rules;

e) distributing information on its service offering.

7. Will comply with all applicable reporting requirements and

additional conditions; and,

8. Will take steps to help prevent waste, fraud, and abuse of the USF.

Furthermore, Plains Internet designation as an ETC serves the public interest by expanding customer choice and increasing service availability. Plains Internet’s compliance with each of the applicable requirements to obtain ETC designation is discussed below:

1. **Plains Internet is a Common Carrier**

Plains Internet is regulated as a common carrier. As such, Plains Internet certifies that it is a common carrier for purposes of ETC designation. Therefore, Plains Internet meets the ETC requirement of being a common carrier.

1. **Plains Internet Offers the Services Supported by the Federal Universal Service Support Mechanisms**

As described below, Plains Internet provides fixed wireless service supported by federal universal service support mechanisms, including the following capabilities:

Plains Internet LLC meets the tier service speed standards for fixed wireless at 100 Mbps for download and 20 Mbps for upload. Plains Internet, LLC also offers unlimited data on all service packages.

1. **Plains Interne has the Ability to Function in Emergency Situations**

Plains internet has back-up power sufficient to ensure functionality in the designated service areas without an external power source and is able to re-route traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations.

**V. Waiver of Five-Year Plan**

Under section 54.202 of the Commission’s rules, the Commission adopted additional

requirements for parties seeking an FCC ETC designation.[[1]](#footnote-1) For example, a petitioner seeking an FCC ETC designation must submit a five-year improvement plan and a certification committing to implement consumer protection and customer service standards The Commission adopted these requirements in 2005, in conjunction with related annual reporting obligations, to monitor carriers’ use of funding.

For CAF recipients, however, the Commission adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certification of compliance with benchmark milestones. For this reason, the Commission eliminated the five-year improvement plan requirement for price-cap and rate-of-return carriers and for recipients of funding under the rural broadband experiments.[[2]](#footnote-2) The Commission also eliminated, for all CAF recipients, the annual reporting obligations associated with both the five-year improvement plan and the consumer protection certification, after determining that such obligations were no longer essential to the Commission’s ability

to monitor ETC use of support for its intended purpose. Consistent with these decisions, the Commission found good cause to waive, on their own motion, the requirement that winning bidders seeking an FCC ETC designation file a five-year improvement plan and demonstrate that it will satisfy applicable consumer protection and service quality standards.[[3]](#footnote-3)

Plains internet will continue to meet all other requirements of section 54.202 of the Commission’s rules,i.e., Plains Internet will (1) certify its commitment to meeting the service and performance requirements applicable to the High Cost support;[[4]](#footnote-4) and (2) demonstrate our ability to remain functional in emergency situations.[[5]](#footnote-5)

**VI. ETC Designation Serves the Public Interest, Convenience and Necessity**

Currently, Plains Internet serves the telecommunications needs of consumers in Texas, and through its proposed CAF II offering, Plains Internet plans to expand its business in Texas by making available to consumers a new, more affordable service offering that meets their basic and advanced communication needs

Designating Plains Internet as an ETC will bring important public interest benefits. The designation will allow a regional facilities-based service provider to expand the market in Texas. This will place significant competitive pressure on other providers, to the benefit of consumers and CAF II program. The benefits to consumers will be significant and include: (i) greater customer choice; (ii) a new, facilities-based service offering with competitive pricing, services, and features; (iii) continued contribution to the economy through Plains Internets facilities and employment; and (iv) access to a region wide network and quality, broadband services. The benefits of competition are widely recognized and extend to all markets, CAFII universal service market, as recognized by the FCC: The additional choice and service options of another broadband [carrier] represents a significant benefit for consumers and is in the public interest. A new entrant should incent existing broadband ETC’s to offer better service and terms to their customers. Consumers increasingly rely on wireless broadband services for their entire telecommunications needs.

Plains Internets designation as an ETC will result in consumers having greater access to wireless broadband telecommunications services, particularly from facilities-based carriers, thereby advancing the basic goal of preserving and

advancing universal service. Plains Internets plan allows customers to control costs by receiving a preset monthly rate with unlimited data. The wireless broadband services that Plains Internet offers will provide customers with an affordable alternative to traditional telecommunications service. Plains

Internets designation as an ETC will enable the Company to make available competitive service offerings to consumers throughout its designated service area. Designating Plains Internet as an ETC will provide an additional alternative to the existing service plans currently being offered and thus will promote competition and advance communication services for the benefit of the residents

of the State of Texas.

**VII. Certification of Eligibility for Benefits under the Anti-Drug Abuse Act**

Plains Internet certifies that no party to this Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.[[6]](#footnote-6)

**VIII. Post-Designation Reporting Obligations**

Plains Internet will file on a recurring basis:

***Annual Section 54.313 Report***. On July 1st of the year following the year an ETC begins

receiving support and on each subsequent July 1st thereafter, it must file an FCC Form 481.[[7]](#footnote-7) Annual reports are filed with the Universal Service Administrative Company (USAC).[[8]](#footnote-8)

ETCs must complete the FCC Form 481 on USAC’s website.[[9]](#footnote-9) As part of this form, carriers must test and certify compliance with relevant performance requirements in section 54.309 of the Commission’s rules.[[10]](#footnote-10) The Wireline Competition Bureau (WCB), the Wireless Telecommunications Bureau (WTB), and the Office of Engineering and Technology (OET) have adopted a uniform framework to measure and report on the performance of ETCs’ broadband service.[[11]](#footnote-11)

***Annual 54.314 Certification***. On October 1st, beginning in the year after the winning bidder begins receiving support and continuing throughout the entire support term, an ETC designated by the FCC must certify that the support received in the prior year was used, and the support that will be received in the upcoming year will be used, only for the provision, maintenance, and upgrading of facilities and services for which support is intended.[[12]](#footnote-12) An ETC designated by the FCC must self-certify by filing a sworn affidavit executed by a corporate officer attesting to the relevant facts.[[13]](#footnote-13) Certifications must be filed with both the FCC and USAC. ETCs may submit their certifications to USAC via its online filing system[[14]](#footnote-14) or by sending the appropriate certification sample letter (provided on USAC’s website) via email or U.S. mail.[[15]](#footnote-15) Certifications must also be submitted to the FCC’s Office of the

Secretary on or before October 1st. The submission should clearly reference WC Docket No. 14–58, ETC Annual Reports and Certifications.

***Annual Reporting of Location Information***. On or before the last business day of the second calendar month following the one-year anniversary of support authorization, and by the same day in subsequent years until all build-out requirements are satisfied, winning bidders must file with USAC through the High-Cost Universal Broadband (HUBB) portal location information, including geocoded data, for each qualifying location to which they are offering the requisite service and identify the kind of technology used to bring such service.[[16]](#footnote-16) In the first year, bidders must submit all locations where the requisite service is being provided, and in subsequent years, all locations to which they are newly offering service.[[17]](#footnote-17) The Commission has consistently encouraged carriers subject to defined deployment obligations and HUBB reporting obligations to report location data on a rolling basis and has adopted a best practice of filing this information within 30 days after the initial offering of service.[[18]](#footnote-18)

***Milestone Certifications***. By the last business day of the second calendar month following each relevant service milestone, an ETC must file a certification that they have met their interim service milestone and are meeting the requisite public interest obligations.[[19]](#footnote-19) If an

ETC is unable to meet an interim build-out milestone, it must notify the Commission, USAC, and the relevant state, U.S. Territory, or Tribal government as appropriate, no later than ten business days after the applicable deadline.[[20]](#footnote-20)

**IX. *Document Retention and Compliance Audits.***

Plains Internet will retain, for at least ten years, all records necessary to demonstrate to

auditors that the support received was consistent with universal service high-cost program rules and to make these documents available upon request to the FCC (and any of its bureaus or offices) and to USAC, and to their respective auditors.[[21]](#footnote-21) In addition, Plains Internet understands that as a recipient of high cost support it is subject to random compliance audits and other investigations to ensure compliance with program rules and orders, including verification of actual deployment to reported locations.[[22]](#footnote-22)

**X. Conclusion**

As discussed above, designation of Plains Internet as an Eligible Telecommunications Carrier (ETC) in Texas accords with the requirements of the Act and is in the public interest. For all of the foregoing reasons, and pursuant to receiving CAFII funding Plains Internet respectfully requests that the Commission designate it as an Eligible Telecommunications Carrier (ETC) in Texas.

1. 47 CFR § 54.202 [↑](#footnote-ref-1)
2. *2016 Rate-of-Return Reform Order*, 31 FCC at 3166, 3168, paras. 216, 220 (eliminating five-year plan and related

   progress reports for rate-of-return and price-cap carriers); *Connect America Fund et al*., Report and Order and

   Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90, 14-58, 29 FCC Rcd 8769, 8801, 8095, para. 77

   (2014) (eliminating five-year plan requirement for recipients of rural broadband experiment support) [↑](#footnote-ref-2)
3. Generally, the Commission’s rules may be waived if good cause is shown. 47 CFR § 1.3. The Commission may

   exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public

   interest. *Ne. Cellular Tel. Co. v. FCC,* 897 F.2d 1164, 1166 (D.C. Cir. 1990). In addition, the Commission may

   consider issues of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT*

   *Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Ne. Cellular*, 897 F.2d at 1166. Waiver of the Commission’s rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) suchdeviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Ne.Cellular*, 897 F.2d at 1166. [↑](#footnote-ref-3)
4. 47 CFR § 54.202(a)(1)(i). [↑](#footnote-ref-4)
5. 36 *Id*. § 54.202(a)(2) (requiring a petitioner seeking an FCC ETC designation to “[d]demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations”). [↑](#footnote-ref-5)
6. *Id*. § 1.2002. [↑](#footnote-ref-6)
7. 47 CFR § 54.313(h)(2)(i); *Id*. § 54.313(j). [↑](#footnote-ref-7)
8. *ETC Reporting Obligations Elimination Order*, 32 FCC Rcd at 5948, para. 15 (determining that the Commission

   “will no longer require ETCs to file duplicate copies of Form 481 with the FCC and with states, U.S. Territories,

   and/or Tribal governments beginning in 2018”); 47 CFR § 54.313. [↑](#footnote-ref-8)
9. *See* Universal Service Administrative Company High Cost Forms, Form 481,

   http://www.usac.org/hc/tools/forms.aspx; Instructions for Completing FCC Form 481,

   http://www.usac.org/\_res/documents/hc/pdf/forms/FCC-Form-481-Instructions.pdf [↑](#footnote-ref-9)
10. 47 CFR § 54.309. [↑](#footnote-ref-10)
11. *Performance Measures for Connect America High-Cost Universal Service Support Recipients*, WC Docket No.

    10-90, Order, DA 18-710 (WCB/WTB/OET rel. July 6, 2018); *see also Connect America Fund et al.*, Order on

    Reconsideration, 33 FCC Rcd 1380, 1387, para. 16 (2018) (*Phase II Auction Reconsideration Order*) (establishing

    general guidelines for the adoption of a performance methodology); *USF/ICC Transformation Order*, 26 FCC Rcd

    at 17708, para. 112; 47 CFR § 54.313(a)(6). [↑](#footnote-ref-11)
12. 47 CFR § 54.314. The affidavit becomes part of the public record. *See id*. [↑](#footnote-ref-12)
13. 47 CFR § 54.314(b), (c)(2). Relevant state authorities submit certifications on behalf of the ETCs they designate.

    *Id*. § 54.314(a). [↑](#footnote-ref-13)
14. *See* Universal Service Administrative Company Online Filing User Guide for Section 54.314 Self-Use

    Certification, http://www.usac.org/\_res/documents/hc/pdf/forms/Self-Certifiers-User-Guide.pdf. [↑](#footnote-ref-14)
15. *See* Universal Service Administrative Company Self-Use Certification Sample Letter,

    http://www.usac.org/\_res/documents/hc/pdf/samples/sample-self-use-cert-letter.pdf. [↑](#footnote-ref-15)
16. 47 CFR § 54.316(a)(4)*.* [↑](#footnote-ref-16)
17. *Phase II Auction Order*, 31 FCC Rcd at 6010-11, para.173. [↑](#footnote-ref-17)
18. *See id.* at 6011, para. 173; *Connect America Fund et al*., WC Docket No. 10-90 et al., Report and Order et al., 31

    FCC Rcd 3087, 3164, 3167, paras. 211, 218 (2016); *see generally Wireline Competition Bureau Provides Guidance*

    *to Carriers Receiving Connect America Fund Support Regarding Their Broadband Location Reporting Obligations*,

    WC Docket No. 10-90, Public Notice, 31 FCC Rcd 12900, 12910 (2016) (*HUBB Public Notice*); Universal Service

    Administrative Company, Filing Geolocated Broadband Deployment Data, https://usac.org/hc/tools/hubb.aspx [↑](#footnote-ref-18)
19. 47 CFR § 54.314(b)(4) (requiring a “certification that by the end of the prior support year, it was offering broadband meeting the requisite public interest obligations specific in § 54.309 to the required percentage of its supported locations in each state as set forth in § 54.310(c)”); *id*. § 54.310(c) (“Recipients of Connect America Phase II awarded through a competitive bidding process must complete deployment to 40 percent of supported locations by the end of the third year, to 60 percent of supported locations by the end of the fourth year, to 80 percent of supported locations by the end of the fifth year, and to 100 percent of supported locations by the end of

    the sixth year.”). [↑](#footnote-ref-19)
20. 47 CFR § 54.320(d). [↑](#footnote-ref-20)
21. 47 CFR § 54.320(b). [↑](#footnote-ref-21)
22. *Id*. § 54.320(a); *USF/ICC Transformation Order*, 26 FCC Rcd at 17864, para. 621 [↑](#footnote-ref-22)