

STATE OF KANSAS
KANSAS CORPORATION COMMISSION

Wisper ISP Inc.)	
)	
)	Docket No. 19-225
Application for Designation as an Eligible)	
Telecommunications Carrier for Purposes of)	
Receiving Federal Universal Service Support)	
From the FCC Connect America Fund – Phase II)	
)	

**APPLICATION OF WISPER ISP INC. FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER (PUBLIC VERSION)**

Now comes Wisper ISP Inc. (“Wisper”) and pursuant to the Telecommunications Act of 1996, 47 U.S.C. §214(e)(2) (the “Act”) and the rules of the Federal Communications Commission (“FCC”) 47 C.F.R. §54.201, hereby requests that the Kansas Corporation Commission (“Commission”) designate Wisper as a telecommunications carrier eligible under the provisions of Section 54.201(d) to receive federal universal service support. Wisper seeks ETC designation in order to receive support from the Connect America Fund (“CAF”) Phase II.

Wisper is an Illinois corporation incorporated by Nathan Stooke, having a principal place of business and mailing address of 9711 Fuesser Road, Mascoutah, IL 62258. Wisper will also be applying for a certificate of convenience and necessity to provide telecommunications services to support its efforts in deploying broadband and voice services in Kansas pursuant to the requirements of CAF Phase II. Attached as Exhibit E is the Foreign Authority to do Business issued by the Kansas Secretary of State authorizing Wisper to do business in Kansas.

By *Public Notice* dated August 28, 2018, the FCC provisionally selected Wisper for CAF support of one hundred ninety-six (196) census blocks in fifty-one (51) census block groups

covering four hundred and fourteen (414) customer locations in eastern Kansas.¹ Wisper respectfully requests that the Commission expeditiously grant this Application. Pursuant to the Public Notice, “by February 25, 2019, the long-form applicant must obtain from all the relevant states or the Commission a high cost ETC designation(s) that cover its winning bid areas.”² Thus, in order to ensure the Company is eligible to obtain federal universal service fund (“USF”) support necessary to expand its high-speed broadband and voice services to the residents of rural Kansas, the Company respectfully requests designation on an expeditious basis, and no later than February 20, 2019. Wisper hopes the Commission will have granted its application to provide facilities-based local and interexchange services by then as well to qualify as a “carrier.” For the reasons stated below, designating Wisper as an ETC is consistent with statutory and regulatory requirements and the public interest.

Connect America Fund Phase II Auction

The CAF Phase II auction program was implemented in 2016 as part of the FCC’s reform and modernization of its high-cost universal service support program in order to provide expanded access to voice and broadband services in high-cost areas. On February 1, 2018, the FCC adopted final rules for the auction, which utilized competitive bidding to allocate up to \$1.98 billion of support over 10 years (Auction 903).³ On August 28, 2018,

¹ *Connect America Fund Phase II Auction (Auction 903) Closes Winning Bidders Announced FCC Form 683 Due October 15, 2018*, WC Docket No. 10-90, DA 18-887 (August 28, 2018).

² *Connect America Fund Phase II Auction (Auction 903) Closes Winning Bidders Announced FCC Form 683 Due October 15, 2018*, WC Docket No. 10-90, DA 18-887 (August 28, 2018) at fn. 11 (“Winning Bidder Announcement”).

³ See *Public Notice*, “Connect America Fund Phase II Auction Scheduled for July 24, 2018; Notice and Filing Requirements and Other Procedures for Auction 903, 33 FCC Rcd 1428 (2018) (“Phase II Auction Procedures Public Notice”).

the FCC announced that Wisper was one of the auction winners for Kansas with winning bids for one hundred ninety-six (196) census blocks in fifty-one (51) census block groups covering four hundred and fourteen (414) customer locations.⁴ All of these census blocks were assigned to Wisper during the post-auction process.

Recipients are required to offer voice and broadband service at or above specified performance levels and must offer Lifeline in the designated census blocks. Recipients must deploy service to 40 percent of the locations by year three of the program, 60 percent by year four, 80 percent by year five and 100 percent by year six.⁴ Recipients not meeting these milestones will be subject to a reduction in support.⁵

Pursuant to the *CAF II Auction Procedures Public Notice*, winning bidders must be deemed financially qualified, as evidenced by the submission of a letter of credit commitment letter by November 5, 2018, and a letter of credit and opinion letter by February 25, 2019, that ensures and confirms the FCC's ability to recover funds in the event of non-compliance with program requirements.⁶ Winning bidders also must submit a detailed technology and system design description, including a network diagram that must be certified by a professional engineer.⁷ The professional engineer must certify that the network can deliver voice and broadband service that meets the requisite performance requirements to at least ninety-five (95) percent of the required number of locations in each relevant state.

All correspondence, communications, pleadings, notices, orders and decisions relating

⁴ See *Winning Bidder Announcement*.

⁵ See 47 C.F.R. § 54.310(c).

⁶ See 47 C.F.R. § 54.315(b)(3). See also *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016) ("*Phase II Auction Order*").at Appendix B.

⁷ See 47 C.F.R. § 54.320(d).

to this Application should be addressed to:

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I. Introduction / Description of Company

Company Background

Wisper is a broadband Internet Service and Voice-over-IP Phone systems provider with headquarters in Mascoutah, IL. An Organizational Chart for the Company is attached as Exhibit A. Wisper was formed on September 18, 2003 in order to provide fixed wireless broadband to underserved communities and rural areas in Illinois. In 2012, Wisper began offering VoIP telephone service to residents and businesses. Wisper also maintains two offices in Missouri with current and additional planned service in Indiana, Illinois, Missouri, Kansas, Arkansas and Oklahoma.⁸

In 2018, Wisper was the second highest recipient in Phase II Connect America Funds

⁸ See <https://www.wisperisp.com/coveragearea/> for full coverage area.

awarded \$220,319,375 to provide broadband to rural areas in six states: Arkansas, Kansas, Illinois, Indiana, Missouri, and Oklahoma. Wisper has always been committed to providing broadband to unserved and underserved rural communities and will use this funding to accelerate its mission. Wisper has a community-based partnership and promotions strategy that uses existing infrastructure (such as water towers) to lower development costs and donates connections to essential community stakeholders such as fire departments, senior services centers, and police stations, which in turn expands access locally. Additionally, Wisper works with state and local leaders, agencies, and regional associations to deliver broadband to underserved citizens. A map and list of the awarded CAF areas is included as Exhibit B. A copy of the resumes of key Company personnel is included as Exhibit C. A copy of the Company's confidential financial documents is included as Exhibit D.

VoIP Information

Wisper runs, manages, and maintains a facilities-based VoIP platform on Company owned server hardware housed at its data center. The Company's platform runs on a Linux Operating System alongside proprietary software. This allows multi-tenant software solution that Wisper hosts in the network so its customers will not require their own on-premises IP-PBX. The system allows Wisper to deploy full-featured end-user services in a scalable, fault-tolerant, and resilient way. The Wisper system is highly scalable, such that the Company can purchase additional licenses as it grows its customer base. The Wisper system can scale well into the tens of thousands of concurrent calls and higher by adding additional hardware to meet concurrent call requirements. With easy scalability, it is possible to service

tens-of-thousands of end-users without deploying substantial additional equipment. The Company's services include NOC tool and monitoring systems that support monitoring, statistics, and reports that provide real-time data on performance, traffic statistics, usage, and more.

Fixed Wireless Broadband Information

Wisper utilizes a wireless ring network with fixed base stations (access nodes) running at the 1+0 and/or 4+0 on the licensed 11 GHz or 5 GHz spectrum. This network will have 99.99% uptime and availability due to its ring structure. The technologies include fiber and/or fixed wireless (11 GHz or 5 GHz) for interconnection (backhaul) and fixed wireless— either 3.5 (CBRS), 2.4 GHz, 2.5 GHz (EBS), 5 GHz, TVWS, or 60 GHz—for last-mile service.

Wisper will provide voice services through a hosted VoIP on premise server solution. The PBX is hosted by Wisper at its hosting facilities. Wisper's redundant backhaul facilities provide for 99.999% uptime for its backbone. Wisper offers 24/7 technical support. End users can use third-party VOIP-enabled phones, mobile phones, and/or computers to send and receive calls. The service includes E911, an online interface for account management, and voicemail-to-email functionality.

Wisper will provide broadband Internet access service through an antenna installed on the customer premise that will connect through a radio at a central tower. The tower will either connect directly to the internet via a fiber or will connect to another fiber-fed tower via fixed wireless.

Wisper is proud of its heritage as an innovative wireless internet service provider

serving rural customers neglected by large incumbent local exchange carriers and cable companies. To support the wireless internet service provider industry with its rapid growth, Wisper actively passes on its knowledge to through its Wisper University program.⁹ This program has trained hundreds of people to climb towers, install wireless equipment, and provide wireless internet service in unserved and underserved areas.

Voice and Broadband Plans

Wisper's residential digital voice service plan is \$25.00 with Wisper broadband and \$30 without. Lifeline customers will receive the \$9.25 benefit, lowering the price to \$15.75 per month or \$20.75 respectively. The customer can use its own VoIP-enabled phone, pay an additional fee to use the service's mobile app, or purchase a phone from Wisper. Lifeline customers will receive all of the same features as a non-Lifeline customer. Features include call waiting, caller ID, call forwarding, call transfer, voicemail, and free long distance in the U.S.

Wisper deploys the latest in fixed wireless broadband technology. The Company offers high speed connectivity with military grade security and adjustable speeds to both residences and business in its coverage area. Wisper offers the following broadband plans:

Broadband			
	Speed	Price	Lifeline Pricing
US	10 Mbps Download / 2 Mbps Upload	\$59.99	N/A
Pro	15 Mbps Download / 3 Mbps Upload	\$84.99	N/A
Ultra	20 Mbps Download / 4 Mbps Upload	\$99.99	N/A

⁹ <https://www.wisperisp.com/wisperuniversity/>

Custom	30+ Mbps Download / Customized Upload Speeds	Custom	N/A
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<https://www.wisperisp.com/services/>

Lifeline Implementation

Wisper will implement Lifeline based on the current rules and regulations established by the FCC and administered by USAC and as those rules may change in the future. Wisper will follow the most recent Report and Orders and Lifeline Reform Order to begin services. The customer will have an option of a residential VoIP only package, Internet package of 15/3 or higher, or a bundled voice and Internet package. Wisper will price its Lifeline service at \$9.25 less than its equivalent non-Lifeline service. Therefore, Wisper's Lifeline service will represent a dollar-for-dollar reduction from its comparable non-Lifeline rate and will represent a pass-through of the full amount of support to the qualifying low-income consumer. Wisper will allow customers to apply the Lifeline subsidy, on a full pass-through basis to packages of voice and broadband services.

Wisper will build a dedicated Lifeline landing page with detailed information, how to apply, and how to contact USAC. Links to the application and worksheet, both English and Spanish, for each state will be available for download. Wisper customer service agents will be trained to help customers fill out the form and send them to us.

Along with the application, Wisper will have a cover sheet with information on how to contact Wisper for help, how to send the application to Wisper (both electronically and by mail), and what additional information Wisper need from the customer. Additional

information will include a copy of their current driver's license, copy of their paycheck stubs/SNAP card/Medicaid card/SSI statement/Tribal program, etc., what service(s) they are interested in, and how they heard about Wisper.

Upon receipt of the filled-out application, Wisper's Customer Service Department will process the application through NLAD and let the customer know if they qualify or don't qualify for Lifeline. Additionally, the customer service representative will determine if the customer is in the network. Based on their qualification status, services they are interested in, and if service from Wisper is available in their area, the appropriate packages will be offered to the customer for sign up and installation will be scheduled.

Wisper will submit monthly reimbursement reports to USAC, and will work with USAC on re-certifying any current customers. All documentation related to the customer and Lifeline will be maintained while the customer is with Wisper and for three years after they change providers.

II. Federal Telecommunications Act of 1996, Eligible Telecommunications Carrier

Pursuant to Section 214(e)(2) of the Act, a state commission may, upon its own motion, or upon request, designate a common carrier to be an "eligible telecommunications carrier" for purposes of receiving universal service support under the Act. Section 214(e)(2) also requires that the carrier designated meet the requirements of Section 214(e)(1). Section 214(e)(1) states:

A common carrier designated as an eligible telecommunications carrier... shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received -

(A) offer the services that are supported by the Federal universal service

support mechanism under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the service offered by another eligible telecommunications carrier); and
(B) advertise the availability of such services and the charges therefore using a media of general distribution.

Section 54.201(b) of the FCC's Rules states that the Commission shall, on its own motion or upon request, designate a common carrier an ETC so long as the carrier meets the requirements of Section 54.201(d), which restates the requirements found in Section 214(e)(1) of the Act. Section 214(e)(2) of the Act and Section 54.201(c) of the FCC's Rules state that the Commission may, in the case of an area serviced by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area the Commission designates, provided each additional requesting carrier satisfies Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's Rules. Before designating an additional ETC for an area serviced by a rural telephone company, the Commission shall find that such designation is in the public interest.

III. Designated Service Area

Section 214(e)(2) of the Act states that an ETC shall be designated for a "service area" by the state commission. Pursuant to the *Public Notice*, the FCC provisionally selected Wisper as a recipient of CAF Phase II funding for one hundred ninety-six (196) census blocks in fifty-one (51) census block groups covering four hundred and fourteen (414) customer locations in Kansas. Wisper is required to receive designation as an ETC from this Commission for each of those census blocks by February 25, 2019 in order to receive the CAF Phase II funding. The list of census blocks that comprise its proposed service area is attached as Exhibit B.

IV. Requirements for ETC Designation

A. Wisper will offer the services that are supported by federal universal service support mechanisms throughout the service area for which ETC designation is received.

Wisper is a common carrier for purposes of obtaining ETC designation under 47 U.S.C. § 214(e)(1). Wisper commits to provide (i) voice grade access to the public switched telephone network (“PSTN”) or its functional equivalent; (ii) minutes of use for local service provided at no additional charge to end users; (iii) access to emergency services; and (iv) toll limitation services to qualifying low-income consumers as provided in accordance with 47 C.F.R. §§54.400 *et seq.*

i. Voice grade access to the public switched telephone network

In its *USF/ICC Transformation Order*, the FCC modified the definition of a supported service to a technologically-neutral approach, allowing companies to provision voice service over any platform, including the PSTN and IP networks.¹⁰ Thus, the FCC amended Section 54.101 to specify that the functionalities of eligible voice telephony services include voice grade access to the public switched network or its functional equivalent.¹¹ The FCC further explained that increasingly “consumers are obtaining voice services not through traditional means but instead through interconnected VoIP providers offering service over broadband networks.”¹² Interconnected VoIP services “allow customers to make real-time voice calls to, and receive calls from, the PSTN, and

¹⁰ *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, 26 FCC Rcd 17663, 17692-93 (2011) (“*USF/ICC Transformation Order*”).

¹¹ *Id.*; See also 47 C.F.R. §54.101(a).

¹² *USF/ICC Transformation Order* at ¶63.

increasingly appear to be viewed by consumers as substitutes for traditional voice telephone services.”¹³ Thus, the FCC concluded that its authority to promote universal services in this context “does not depend on whether interconnected VoIP services are telecommunications services or information services under the Communications Act.”¹⁴ Wisper will therefore provide voice-grade access to the PSTN by providing interconnected VoIP service throughout the designated service area.

ii. Minutes of Use

“Local usage” means an amount of minutes of use of exchange services, prescribed by the FCC, provided free of charge to end users.”¹⁵ The FCC has not specified a minimum amount of local usage that an ETC must offer. Wisper will meet the local usage requirement by including local usage in its rate plans. The Company will comply with any minimum local usage requirements adopted by the FCC or this Commission.

iii. Access to emergency services

ETCs are required to provide access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911 (“E 911”), to the extent the local government in an ETC's service area has implemented 911 or enhanced 911 systems. Wisper will provide access to emergency services by providing 911 and E911 for all of its customers to the extent that the local governments in its designated service areas have implemented 911 and E911.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ 47 C.F.R. § 54.101(a)(2).

iv. Toll limitation for Qualifying Low-Income Consumers

Wisper does not distinguish between toll and non-toll for its voice offering. To the extent Wisper offers a service that distinguishes between toll and non-toll calls, it will offer toll limitation to qualifying low-income consumers at no additional charge.

B. Broadband Internet Access Service

Pursuant to 47 C.F.R. 54.101(a)(2), Wisper will provide broadband services with the capability to transmit data to and receive data by wire or radio 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 service.

In the CAF Phase II auction, the FCC permitted bidders to select from among four performance tiers (for speed and data usage) and two latency tiers. For its Kansas Census Blocks, Wisper committed to offer 25 Mbps download and 3 Mbps upload. In all designated Census Blocks, Wisper will provide low-latency service of 100 milliseconds or better.

C. Wisper will comply with the requirements of 47 USC 214(e)(1).

Wisper commits to, throughout its service area: (A) offer supported services “either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier)” and (B) advertise the availability of such services and the charges therefor using media of general distribution

i. Wisper will use its own facilities to provide the supported services

Wisper provides high-speed broadband and digital telephone services to residential, commercial, and enterprise customers utilizing a combination of unlicensed and licensed frequencies. Wisper has deployed a next generation fixed wireless network targeting rural markets outside of metropolitan areas that are either unserved or underserved. Wisper will provide supported services using its network infrastructure, consisting of last mile connections and network equipment and components. It will also utilize its own facilities to provide backhaul for interconnection via a combination of fiber and wireless microwave technologies.

ii. Wisper will advertise the availability of its service throughout its service area.

Wisper will advertise the availability of the Supported Services throughout its designated service areas using media of general distribution in a manner that is designed to reach those likely to qualify for such services. Wisper agrees to comply with all form and content requirements, if any, promulgated by the FCC and this Commission in the future and required of all designated ETCs, including by disclosing the Applicant's name, that the service is a Lifeline service, that it is a government assistance program, that the service is non-transferable, and that it is available only to eligible consumers and limited to one discount per economic household.

D. Wisper will comply with the FCC's additional eligibility criteria contained in 47 CFR §54.202.

i. Wisper certifies that it will comply with the service requirements applicable to the support that it receives;

Wisper certifies that it will comply with the service requirements applicable to the

support that it receives. Wisper commits to provide supported services throughout the designated service area by committing to provide service to customers who make a reasonable request for service. Wisper will commence offering service to all qualified consumers after it is certified as an ETC and soon after it receives ultimate approval from the FCC pursuant to applicable build-out requirements.

ii. Applicant will provision service that is able to remain functional in emergency situations within industry standards for VoIP services;

Wisper will provision service with sufficient back-up power to remain functional without an external power source in emergency situations. Wisper is able to re-route traffic around damaged facilities and will be able to manage traffic spikes resulting from emergency situations. Applicant uses battery back-up power in the field and battery backup power at its NOC for wireless internet service.

Wisper's VoIP service requires an Internet Protocol (IP) connection to the Company's network or public Internet and 120VAC power to function. In the event of a failure of the IP connection or the local AC power, the service, including the E911 | feature, will not function. Upon activation of a customer, Wisper will provide the customer with a notification containing clear instructions on the use of emergency services.

Wisper's VoIP service is not specifically used as a nomadic device. Customers can, through mobile applications, move the device to different locations. The end users registered service address is the only location at which the subscriber is authorized to use the service. The service will work if the device is moved to another location within the US and connected to a public internet connection; however, this is only authorized when the subscriber updates their service address prior to using the service at the new location by

calling the Company's customer service toll free telephone number (800) 765-7772.

Wisper service includes enhanced 911 services (E911). When service is initially provisioned, and any time the subscriber's service address is updated, the service location is automatically transmitted to a third party E911 provider who geocodes the address, associates it with a local Public Safety Answering Point (PSAP), provides an electronic positive affirmation that the address was properly geocoded, and stores the record on our behalf. When a subscriber dials 911, the call is routed to the third party 911 provider and then from there to the local PSAP. The location information is transmitted in the call signaling to the local PSAP, and is visible to the operator in E911 enabled PSAPs. In jurisdictions where an E911 service fee is imposed on Interconnected VoIP Services by law, the fee is passed through to the end user and remitted to the local authority in accordance with applicable policy.

iii. Wisper will satisfy consumer protection and service quality standards.

Upon designation as an ETC, Wisper will satisfy all consumer protection and service quality standards as provided in 47 C.F.R § 54.202(a)(3), as well as all applicable state specific consumer protection and service quality standards.

E. Designation of Wisper as an ETC is within the public interest.

Designation of Wisper as an ETC will serve the public interest by facilitating the FCC's goal of developing voice and broadband networks in rural, high-cost areas. Under the 1996 Act, "upon request and consistent with the public interest, convenience and necessity" the Commission shall "designate more than one common carrier as an eligible

telecommunications carrier for a service area designated” by the Commission.¹⁶ Before such a designation, the Commission shall find that the designation is in the public interest.¹⁷ In its *2005 ETC Order*, the FCC determined that the benefits of increased consumer choice, and the unique advantages of the applicant’s service offering are components of a public interest analysis.¹⁸

Expedited designation of Wisper will serve the public interest by ensuring that the company is eligible to receive federal USF support, including through the FCC’s high-cost programs. Wisper will use this funding to directly advance the FCC’s goal of deploying voice and broadband-capable networks in rural, high-cost areas while ensuring that rural consumers and anchor institutions benefit from innovations in communications technology. In particular, Wisper will use federal USF support to expand access to high-speed, high-quality broadband and voice provided through interconnected VoIP and fixed wireless for residents of rural Kansas. These advanced communications services will provide important connectivity to consumers, businesses, and community anchor institutions, including rural schools, libraries and medical facilities and are a unique alternative to services provided by traditional wireline carriers within the Company’s designated service area. Absent designation as an ETC, the federal funds will not come to Kansas and instead will be reallocated to a later FCC CAF program.

Designation of Wisper as an ETC is also in the public interest because it will

¹⁶ 47 C.F.R. 54.201(c).

¹⁷ *Id.*

¹⁸ *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, FCC 05-46, 20 FCC Rcd 6371, 6389 (rel. Mar. 15, 2005) (“*2005 ETC Order*”).

promote increased competitive choice, thereby increasing innovation and incenting other carriers to improve their existing networks in order to remain competitive. This will result in greater access to high-speed broadband and voice services, as well as improved service quality for residents of underserved communities in rural areas of Kansas. Wisper's services will provide consumers with additional choices in communications service providers, as well as a variety of service offerings at competitive rates.

Having invested significant resources in rural communities to provide consumers with high-quality, high-speed broadband and voice services, Wisper is well positioned to efficiently use federal *CAF Phase II* funding to expand its communications infrastructure and service offerings. The company will be able to use federal *CAF Phase II* funding to effectively expand the company's broadband and voice-enabled networks for the benefit of the residents, businesses, and community anchor institutions in rural areas of Kansas.

V. Additional Commitments

Wisper agrees to notify the KCC in the future if any factors change affecting its eligibility for an ETC designation. Wisper agrees to pay all fees applicable to ETCs as required by law.

VI. Relief Requested

For the reasons set forth above, Wisper respectfully requests: (i) an expeditious Order no later than February 20, 2019 designating the Company as an ETC in Kansas for the purpose of being eligible to receive federal funding pursuant to the Connect America

Fund – Phase II; and (ii) such other relief as this Commission deems to be just and equitable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kristopher E. Twomey", written in a cursive style.

Kristopher E. Twomey
Counsel for Wisper ISP Inc.