

December 7, 2015

## VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW

**Re:** **Notice of Ex Parte** In the Matter of *Lifeline and Link Up Reform and Modernization* (WC Docket No. 11-42); *Telecommunications Carriers Eligible for Universal Service Support* (WC Docket No. 09-197); *Connect America Fund* (WC Docket No. 10-90)

Dear Ms. Dortch:

On Thursday, December 3, 2015, representing Total Call Mobile (TCM), Michael Morrissey, Vice President-General Counsel, Total Call Mobile, LLC and Locus Telecommunications, LLC, along with Geoff Why of Mintz Levin and Rachel Sanford Nemeth of ML Strategies, met with Claude Aiken of the Office of Chairman Wheeler, Jon Wilkins of the Office of the Managing Director, and Trent Harkrader of the Wireline Competition Bureau to discuss the proposed Snapshot Rule.<sup>1</sup>

In August, TCM participated in a Coalition filing which asserted that the Commission's method for establishing a uniform snapshot date proposed in the *Lifeline Second Report and Order* would "result in many situations where ETCs provide Lifeline benefits to eligible low-income consumers without receiving reimbursement for such services."<sup>2</sup> There were no filings in opposition to this petition.

As part of this Coalition filing, TCM proposed the following rule change to Section 54.407(a):

Universal service support for providing Lifeline shall be provided to an eligible telecommunications carrier, based on the number of actual qualifying low-income consumers it serves directly as of the first day of the month *plus any qualifying consumers de-enrolled in the previous month that received Lifeline service in the prior month.* (emphasis added).<sup>3</sup>

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<sup>1</sup> See *Lifeline and Link Up Reform and Modernization, et al., WC Docket 11-42, et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order*, FCC 15-71 (rel. June 22, 2015) (Second Report and Order).

<sup>2</sup> See *Wireless ETC Petitioners' Petition for Reconsideration and Clarification*, at 8; FCC, WC Docket No. 11-42; WC Docket No. 09-197; WC Docket No. 10-90 (filed Aug. 13, 2015).

<sup>3</sup> *Id.*

December 7, 2015

Page 2

On December 3, 2015, Mr. Morrissey provided data illustrating the impact of the Snapshot Rule on monthly revenues from January 2015 to September 2015 (Appendix A). This data illustrates how TCM would lose revenue each month because customers enroll and dis-enroll in the same month, receive devices and service, but are not counted for the purpose of reimbursement. For example, a customer may enroll on April 2 and dis-enroll on April 15 but TCM would not be reimbursed for the cost of providing service to this customer because April reimbursement is calculated based on the number of subscribers on May 1. This model under the proposed Snapshot Rule places companies like TCM at a disadvantage. If the rule was in place in 2015, TCM would lose \$921,719 from January through September.

Providing the reimbursement subsidy to service providers for customers that enroll and dis-enroll within the same month does not unjustly enrich companies like TCM. Rather, changing the Snapshot Rule to allow this type of reimbursement would simply cover the cost of serving customers. Furthermore, it is plausible that a customer could use his allotment of minutes in this short time frame. In this scenario, TCM has paid up front costs – i.e. device, regulatory fees, taxes – and provided the service but is not eligible for reimbursement.

TCM recognizes that the negative impact of the proposed Snapshot Rule is likely an unintended consequence. Barring Commission action, the Snapshot Rule will go into effect in February, 2016. TCM respectfully asks the FCC to examine impact of the Snapshot Rule of companies like TCM and change the Snapshot Rule to reimburse service providers for customers who enroll and dis-enroll within the same month before the Snapshot Rule takes effect.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being filed via ECFS, and a copy will be provided via email to the attendees.

Sincerely,



Geoffrey G. Why  
Member  
Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo PC

cc: Claude Aiken, Office of Chairman Wheeler  
Jon Wilkins, Office of the Managing Director  
Trent Harkrader, Wireline Competition Bureau

**Appendix A – Total Call Mobile Monthly Impact of Snapshot Rule**

Month	Subscribers*	Revenue Affected
Jan '15	2,412	\$ 22,311
Feb '15	1,806	\$ 16,706
Mar '15	4,632	\$ 40,349
Apr '15	13,028	\$ 120,509
May '15	17,033	\$ 157,555
Jun '15	13,011	\$ 120,382
Jul '15	14,373	\$ 132,950
Aug '15	15,437	\$ 142,792
Sep '15	18,180	\$ 168,165

