

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Mobi PCS, Inc. and Cricket)	WC Docket No. 05-337
Communications, Inc. Petition Requesting)	
The Federal Communications Commission)	
To Provide Guidance to the Universal)	
Service Administrative Company)	

COMMENTS OF SMITH BAGLEY, INC.

Smith Bagley, Inc. (“SBI”), by counsel and pursuant to the *Public Notice*¹ issued by the Wireline Competition Bureau (the “Bureau”), hereby provides comments on the Petition of Mobi PCS, Inc. (“Mobi”), and Cricket Communications, Inc. (“Cricket”), Requesting the FCC to Provide Guidance to the Universal Service Administrative Company (“Petition”). As discussed below, SBI believes the Commission should grant the Petition while clarifying that the proposal set forth therein is only one permissible method and that carriers are free to choose other approaches that comply with applicable rules.

I. INTRODUCTION

SBI is licensed by the Commission to provide cellular radiotelephone service and personal communications service (“PCS”) throughout portions of Arizona, New Mexico, Utah, and Colorado. SBI furnishes service and has been designated as an eligible telecommunications

¹ *Comment Sought on Mobi PCS, Inc. and Cricket Communications, Inc., Request Regarding Competitive Eligible Telecommunications Carrier Rules, Public Notice*, WC Docket No. 05-337, DA 0-1562 (rel. July 21, 2009) (“*Public Notice*”).

carrier (“ETC”) throughout the Navajo Nation, as well as Hopi, White Mountain Apache, Ramah Navajo, and Zuni tribal lands.

SBI has constructed wireless telecommunications infrastructure and facilities to extend service to consumers on tribal lands who suffer from some of the lowest household telephone penetration levels in the United States. In June 2001, SBI launched its VisionOne service offering as part of its effort to carry out its universal service mandate. The VisionOne service permits qualifying subscribers residing on tribal lands to purchase service (including 600 minutes of airtime) for \$1.00 per month. In addition, SBI provides VisionOne subscribers with the capability to access “free call” numbers for hospitals, fire and police departments, and other important community organizations, without incurring any toll charges or diminution of monthly airtime use allotments.

Through SBI’s efforts, telephone penetration on tribal lands has increased dramatically. SBI continues to invest in its network, seeking to deliver high-quality advanced telecommunications services throughout SBI’s ETC service area.

II. DISCUSSION

SBI agrees with Mobi and Cricket that it would be beneficial for the Commission to issue guidance on the methods competitive ETCs (“CETCs”) may use in reporting wireless subscribers who only have P.O. Boxes, and not street addresses, for their billing addresses. SBI does not believe, however, that the methods proposed in the Petition are appropriate for all areas or all carriers. Accordingly, SBI urges the FCC to clarify – as requested in the Petition – that the methods described in the Petition are not the only permissible approaches and that CETCs may choose other methods that comply with applicable rules. These methods should include the use

of mapping and geocoding software tools that locate P.O. Box addresses according to the Zip Code “centroid” or the physical location of the post office itself.

A. There Is a Need for Commission Guidance on This Issue.

In recent months, SBI has responded to questions from GKA, P.C., a firm that USAC subcontracts with for ETC audits, regarding the procedures it uses in determining the appropriate wire center or zone for customers whose billing addresses are P.O. Boxes and not street addresses. SBI explained that it uses the same mapping and geocoding software – ExchangeInfo Plus and MapMarker – that it uses to locate customers with street addresses. For P.O. Box addresses, the software assigns the customer to the wire center or zone containing the “centroid” of the Zip Code found in the customer’s billing address.

It is important to note here that in SBI’s service area, thousands of Native Americans are nomadic, while others do not live in a place with an organized street addressing system. That is, while a residence exists, there is often no street name or house number that can be entered into traditional mapping programs to geocode a location. For many on reservation lands, the P.O. Box address is the only “location” associated with the customer.

In the absence of specific provisions in the FCC’s rules regarding how to locate P.O. Box addresses, the auditors made recommended findings that SBI believes do not reflect the FCC’s line count reporting requirements. In a draft report earlier this year, the auditor recommended a finding of an “immaterial violation” based on the auditor’s belief that the Zip Code centroid placed some customers in wire centers that were not associated with the customer’s location.² However, the auditor considered it “immaterial” because the auditor acknowledged that the

² In addition to the specific issue of reporting P.O. Boxes, SBI believes this finding is questionable because it is apparently based on the notion that the name of a wire center must always match the name of the city or town listed in the billing address. Because no final audit report has been issued, the matter is not yet ripe for Commission review.

FCC's rules are not clear regarding how P.O. Box addresses may be reported. The auditor also recommended "that the FCC consider changing its rules to incorporate alternatives to customer billing addresses as the basis for reporting mobile wireless customers in the case where the customer has a P.O. Box billing address."

Although SBI does not believe any rule changes are needed, SBI agrees with the auditor's assessment that the Commission's rules do not provide sufficient guidance to determine what methods are permissible for reporting customers with P.O. Box addresses. Accordingly, SBI agrees that there is a need for the Commission to provide guidance to USAC regarding this issue.

B. The Methods Proposed by Mobi and Cricket Are Not Appropriate for All Situations or All Carriers.

SBI does not believe the proposal to use subscriber polling to determine the relevant ILEC study area presents a realistic solution in many areas. Consumers cannot be presumed to know which wireline ILEC is certificated to serve their residential location. This is especially true on tribal lands and in other underserved areas. In SBI's case, a significant percentage of mobile wireless subscribers have never received wireline telephone service or live in areas that are unserved by wireline carriers. Such consumers will have no basis on which to respond to a survey asking them to identify the ILEC serving their residential location.

Even assuming customers will always be able to name the underlying ILEC, the methods proposed in the Petition only permit the association of a customer with an ILEC study area. This would be of no use in cases where a CETC must report customers below the study-area level, *e.g.*, if the ILEC's support is disaggregated under 47 C.F.R. Section 54.315 or broken out into IAS zones. In such cases, it would be necessary to use a method that associates the customer more precisely with the particular zone within a study area in order to comply with the applicable

reporting rules. Consumers will not be capable of reporting their location by, for example, IAS zone.

Because the methods proposed by Mobi and Cricket will not be adequate in many areas or for many carriers, it is important that any guidance clarify that there are other permissible solutions, as described below.

C. The Commission Should Clarify that CETCs May Use Other Methods, Including Reporting According to Zip Code Centroid.

The Petition asks the Commission to clarify that the proposed methods do not constitute an exhaustive list and that other methods may be used. SBI agrees and urges the Commission to include, as part of any guidance on the issue, a statement that CETCs may use other methods that comply with applicable rules, including the use of established mapping and geocoding tools to enable carriers to report by Zip Code centroid – *i.e.*, the point that may be considered the center of the Zip Code when all the corresponding points of the Zip Code are averaged..³

For most carriers, the number of customers without a reportable street address is minimal. In SBI's case, that number is in the thousands, and many live in areas without an organized street address system. Accordingly, the use of alternatives, such as the Zip Code centroid method, and the ability to switch to more sophisticated tools as they are developed, is critical to enabling carriers like SBI to comply with their regulatory obligations.

SBI believes that the Zip Code centroid method is the most efficient and reliable means of locating customers with P.O. Box addresses under the FCC's current rules, which require wireless ETCs to report customers based on billing address, not physical location. Because this method relies entirely on the customer's billing address, there is no need to rely on consumers to identify the underlying ILEC. Moreover, because the result is an exact set of coordinates on a

³ Other permissible methods for locating P.O. Box addresses might include, for example, the physical location of the post office serving the Zip Code in question.

map, this method has the additional advantage of enabling CETCs to report by disaggregation or IAS zone. Therefore, the Commission should advise USAC that this method is a permissible approach to reporting P.O. Box addresses.

The FCC has concluded that “a customer’s billing address is a reasonable surrogate to identify a mobile wireless customer’s location for the purpose of identifying a corresponding disaggregation zone and thus the appropriate per-line support level for service provided to the mobile wireless customer.” While acknowledging that “there may be several possible solutions to [the] problem [of identifying mobile wireless subscriber locations],” the FCC nonetheless concluded that “this approach is reasonable and the most administratively simple solution to this problem.”⁴

Reporting P.O. Box billing addresses according to Zip Code centroids achieves the purpose of Section 54.307 of the Commission’s rules: finding the location most closely associated with the customer’s billing address. While the auditor in SBI’s case found that the centroid sometimes placed a subscriber in a wire center that is some distance away from the customer’s place of residence, this is a natural consequence of complying with the FCC’s rule requiring the use of the subscriber’s billing address, which is sometimes different from the customer’s residential address. The bottom line is that this method should be permitted because it relies entirely on the billing address of the customer.

Reporting by Zip Code centroids does not provide an opportunity for carriers to game the system to receive more high-cost support. Use of Zip Code centroids is not likely to result in the overall reporting of customers in higher-support zones or exchanges; it is just as likely to result

⁴ *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 1124, 11315, para. 182 (2001).*

in reporting more customers in areas with lower support levels. Moreover, this method is automatically and uniformly applied with no opportunity for a carrier to make a subjective selection of preferred geographic areas.

III. CONCLUSION

SBI supports the Request by Mobi and Cricket to the extent that it seeks clarification of the permissible methods for ETCs to report mobile wireless subscribers with P.O. Box addresses. However, SBI does not believe the proposal to use subscriber polling to determine the relevant ILEC study area presents a realistic solution for carriers serving remote tribal lands, especially when customers live outside of areas with an organized address system, or are nomadic. Consumers cannot be presumed to know which wireline ILEC is certificated to serve their residential location -- particularly on tribal lands and in other underserved areas, where a significant percentage of mobile wireless subscribers have never received wireline telephone service or live in uncertificated areas. Even assuming customers knew the identity of the underlying ILEC, this would be of no use in cases where a CETC must report according to disaggregation zone or UNE zone.

SBI submits instead that reporting such subscribers according to the location of the centroid of the Zip Code in their billing address is the most reliable and efficient means of reporting subscribers with P.O. Box addresses when no street address is available. SBI further submits that the use of the Zip Code centroid fully complies with 47 C.F.R. Section 54.307(b). Other methods, such as identifying the physical location of the post office corresponding to the customer's Zip Code, would be equally effective and permissible under the rules.

Accordingly, SBI would support a grant of the Request to permit CETCs to opt into the use of customer surveys or polls to identify the underlying ILEC study area for customers with

P.O. Box addresses. However, should the Commission grant the Request, SBI urges the Commission to leave the option open for CETCs to use other reasonable methods, including the Zip Code centroid method, which permits reporting below the study-area level and does not rely on consumer knowledge of underlying ILEC network coverage.

Respectfully submitted,

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