

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

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

**JOINT REPLY COMMENTS OF CHOICE COMMUNICATIONS, LLC  
AND AST TELECOM, LLC D/B/A BLUESKY COMMUNICATIONS**

Choice Communications, LLC (“Choice Communications”) and AST Telecom, LLC d/b/a BlueSky Communications (“BlueSky”) (collectively referred to herein as the “Companies”) by their undersigned counsel and pursuant to the Wireline Competition Bureau’s *Public Notice* dated May 11, 2010, hereby submit their reply comments on the supplemental Link-Up proposal set forth in the Commission’s Notice of Proposed Rulemaking (“*NPRM*”) released April 16, 2010.<sup>1</sup> Specifically, the Companies wish to express their support for the proposal in the comments filed by PR Wireless, Inc. (“PR Wireless”) to establish an Insular Lifeline and Link-Up support mechanism for insular areas.

**I. INTRODUCTION**

Choice Communications is a recent Eligible Telecommunications Carrier (“ETC”) in the U.S. Virgin Islands and is continually expanding its network to bring competitive service and more choices to U.S. Virgin Islands residents and businesses. Choice is headquartered in St. Thomas and has retail locations in Havensight, St. Thomas and Christiansted, St. Croix.

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<sup>1</sup> *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, Order and Notice of Proposed Rulemaking (rel. Apr. 16, 2010) (“*Order and NPRM*”).

BlueSky is a CMRS provider that operates a 100% digital wireless GSM mobile wireless network covering in American Samoa. BlueSky was designated as an ETC by the American Samoa Telecommunications Authority in 2006 and has been serving the territory of American Samoa for over 10 years. BlueSky is headquartered in Pago Pago.

As with Puerto Rico, the territories of the USVI and American Samoa (collectively referred to herein as the “Territories”) present severe challenges to efforts by carriers and regulators to increase telephone subscribership. The Territories have median income levels barely more than a third of the level of the mainland United States. In the USVI, the percentage of families below the poverty level far exceeds that in the mainland United States. In American Samoa, the workforce is reeling from employment reductions in the tuna canning and manufacturing industry, the largest non-governmental employer in the territory. Due in large part to these economic circumstances, wireless penetration lags far behind that of the mainland U.S.

## **II. DISCUSSION**

The Companies appreciate the fact that the Commission has inquired into the possibility of making additional support available from the Low Income Program available to address the lack of access to telephone service that low-income individuals have in Puerto Rico and other insular areas. It is particularly encouraging that the Commission asked whether the supplemental low-income support proposed for Puerto Rico should also be extended to “other similarly situated areas.”<sup>2</sup> However, the Companies agree with PR Wireless’ comment that the limited measures proposed in the *NPRM* are insufficient to address the core issues that underlie the pervasive lack of access to telecommunications. While some consumers cannot access wireline service due to construction charges (as noted in the *NPRM*), the lack of access to

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<sup>2</sup> See *NPRM* at ¶ 51 n.199.

telecommunications is largely due to extraordinarily low household and per capita income. In other words, monthly phone bills remain unaffordable for many even after application of existing Lifeline discounts.

Accordingly, the Companies support the proposal by PR wireless to make a form of insular Lifeline and Link-Up support available to qualifying low-income consumers in Puerto Rico and other insular areas with similar characteristics. As discussed below, the USVI and American Samoa are similarly afflicted with low incomes and high unemployment rates, which negatively affect the ability of residents to afford wireless telephone service. The available discounts would be similar to those available to residents of tribal lands under the Enhanced Lifeline and Link-Up programs. The Companies believe these steps are critically needed and will serve as an effective measure to narrow the gap in access to communications services that currently exists between the Territories and the mainland United States.

**A. There Is a Demonstrated Need For Additional Lifeline Support.**

People in the USVI and American Samoa have very low incomes compared to those living in the mainland United States, and access to wireless communications is lacking. The median income for households in the USVI is \$34,983,<sup>3</sup> compared to a median income of \$52,175 for all households in the United States.<sup>4</sup> Per capita income in the USVI is \$19,787,<sup>5</sup> compared to \$27,466 for the United States overall.<sup>6</sup> In the USVI, 23.8% of all families are

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<sup>3</sup> Source: 2007 Virgin Islands Community Survey, Eastern Caribbean Center, University of the Virgin Islands. The median income in the USVI is approximately 33% less than the median income for all households in the U.S.

<sup>4</sup> U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Table S1901. Per capital income in the USVI is approximately 28% less than in the United States overall.

<sup>5</sup> United States Virgin Islands Business Opportunities Report, United States Dept. of Interior, Office of Insular Affairs (2008) at p. 5.

<sup>6</sup> U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Social Characteristics.

below the poverty level, more than double the percentage in the United States as a whole (9.6%).<sup>7</sup>

The economic situation in the USVI is continuing to worsen. With tourism as the primary industry, the total number of visitors in 2009 was down 13.1% from 2008.<sup>8</sup> While the U.S. mainland economy has begun to emerge from the downturn, USVI is expected to lag behind the mainland as it pulls out of its own recession.<sup>9</sup>

In American Samoa, incomes and wireless penetration levels are even farther behind those in the mainland United States. Although recent data are difficult to come by, the most recent U.S. Census data paint a compelling picture. According to the Census, 61.0% of the population of American Samoa had incomes below the poverty level in 1999.<sup>10</sup> From 2002 to 2007, American Samoa's GDP grew at an average annual rate of 0.4%, compared to an annual rate of 2.8% in the United States (excluding the territories).<sup>11</sup> Federal data show that median annual inflation-adjusted earnings in American Samoa declined by approximately 6% from 2006 to 2008.<sup>12</sup> The economic situation has become more acute of late due to the September 2009 closure of a tuna cannery owned by Chicken of the Sea, resulting in the loss of more than 2,000 jobs.<sup>13</sup> More recently, StarKist Co. announced that it will be reducing its American Samoa

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<sup>7</sup> U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Table S1702.

<sup>8</sup> Source: U.S. Virgin Islands 2009 Economic Review and 2010 Outlook (US Bureau of Economic Research, Oct. 2009) at p. 4.

<sup>9</sup> *See id.* at p. 3.

<sup>10</sup> *See* U.S. Census Bureau, Table PBG79, Poverty Status in 1999 by Age, Data Set: American Samoa Summary File.

<sup>11</sup> News Release, "The Bureau of Economic Analysis (BEA) Releases Estimates of Gross Domestic Product for American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands" (May 5, 2010).

<sup>12</sup> American Samoa and Commonwealth of the Northern Mariana Islands: Wages, Employment, Employer Actions, Earnings, and Worker Views Since Minimum Wage Increases Began (United States Government Accountability Office, April 2010).

<sup>13</sup> Fili Sagapolutele, "COS Samoa Packing Announces Sept. 30 Shut Down With More Than 2,000 Jobs Affected," Samoa News Online (May 2009).

workforce by 600-800 positions.<sup>14</sup> The resulting reductions will reduce the company’s territorial employment from its high of more than 3,000 in 2008 to less than 1,200 workers.<sup>15</sup> The combined workforce reductions, amounting to 3,800 jobs, comprise over 20% of the total American Samoa workforce.<sup>16</sup>

With income levels lagging significantly behind the mainland United States, consumers in the Territories do not have the same level of access to wireless telephone service. Wireless penetration in the USVI is only 71.18%,<sup>17</sup> which trails far behind the U.S. wireless penetration rate of 90% (based on 2008 figures).<sup>18</sup> Based on USAC data, total wireless subscribership in American Samoa amounted to only 64.7% of the overall population.<sup>19</sup>

While Lifeline subscribership in the USVI and American Samoa has increased significantly over the past several years, participation rates still remain low. With more than 23% of families below the poverty level in the USVI, one would expect a similar proportion of households to be subscribing to Lifeline. Yet, although approximately 6,800 families were below the poverty level,<sup>20</sup> there were only approximately 600 Lifeline subscribers in the USVI as of 2008.<sup>21</sup> In American Samoa, with roughly 60% of the population below the poverty level –

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<sup>14</sup> StarKist Press Release, “StarKist to Make Significant Additional Job Reductions in American Samoa” (May 13, 2010).

<sup>15</sup> *Id.*

<sup>16</sup> Source: CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/aq.html>.

<sup>17</sup> Source: CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/vq.html>.

<sup>18</sup> *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 09-66, Fourteenth Report (rel. May 20, 2010) at ¶ 155.

<sup>19</sup> Wireless subscribership data as of December 31, 2008, obtained from USAC Fourth Quarter Appendices, 2009, Appendix HC18 (CETC Reported Lines by Incumbent Study Area – High Cost Loop Support – 4Q2009).

<sup>20</sup> Source: 2007 Virgin Islands Community Survey, Eastern Caribbean Center, University of the Virgin Islands.

<sup>21</sup> See USAC Fourth Quarter Appendices, 2008, Appendix LI07 (Low Income Support Distributed By State – 2007 Through 4Q09). The number of Lifeline customers was calculated in the following manner: divide total Lifeline dollars for 2008 by 12 months, and divide further by \$10.00 in total monthly federal Lifeline discount per customer.

34,745 people<sup>22</sup> – there are only slightly more than 500 Lifeline subscribers in American Samoa as of 2008.<sup>23</sup>

The existing discounts under the Low Income program have not been sufficient to boost telephone penetration. The low income levels, coupled with the large gap between the Territories and the U.S. mainland in access to wireless service, bespeak an urgent need for additional measures to make telephone service more affordable. Therefore, the Companies agree with PR Wireless' assertion that the most effective measure would be to establish a form of insular Lifeline and Link-Up support akin to the Tier 4 discounts made available in tribal areas under the Enhanced Lifeline and Link-Up programs.<sup>24</sup>

To address these problems, the Companies believe the Commission should adopt PR Wireless' proposed Insular Lifeline and Link-Up support mechanisms. Specifically, PR Wireless has proposed an additional Insular Lifeline amount of \$15 per month instead of the \$25 available under the Tier 4 program for tribal areas. The Insular Link-Up discount would be up to an additional \$50 to cover 100% of the charges between \$60 and \$110, for a total maximum discount of \$80 instead of the \$100 total discount available under Enhanced Link-Up. While the Companies believe that the need for additional support in the Territories is as great as it was in tribal areas at the time the Commission adopted Enhanced Lifeline and Link-Up, the Companies agree with PR Wireless that the supplemental discounts may be set at a lower amount in keeping with the Commission's policy objective to control the size of the USF as it considers long-term reform efforts and implements the National Broadband Plan.

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<sup>22</sup> See U.S. Census Bureau, Table PBG79, Poverty Status in 1999 by Age, Data Set: American Samoa Summary File.

<sup>23</sup> See *id.*

<sup>24</sup> See PR Wireless Comments at p. 5.

**B. The Proposal in the Commission’s NPRM is Neither Adequate Nor Competitively Neutral.**

The Companies agree with PR Wireless’ comment that the Commission’s proposal to establish a supplemental Link-Up discount that only applies to “special construction charges” would not be adequate to address the demographic issues that have thus far hindered the growth of Lifeline subscribership and telephone penetration. A supplemental discount that is limited to the service connection charge does nothing to assist consumers who cannot afford the monthly bill after the currently available Lifeline discounts are applied.

As discussed in the previous section, the Territories lag behind the mainland in wireless penetration. Under the typical wireless rate plan, customers do not pay a significant service connection fee. The problem in increasing subscribership is not a customer’s inability to afford a connection charge. Rather, it is the inability to afford monthly service charges. An additional \$15 Lifeline discount as proposed above would significantly increase the ability of low-income families to pay for monthly wireless service.

The proposal in the *NPRM* is also problematic because it is not competitively neutral. With its exclusive focus on special construction charges, the FCC’s proposal inherently favors wireline providers, whose tariffs authorize them to impose line extension charges. Under Section 201(a) of the Communications Act of 1934, as amended, both wireline incumbents and wireless ETCs have the obligation to provide service upon reasonable request. Only wireline carriers have an established mechanism for recovering their investment if additional facilities need to be constructed to reach the customer: tariff provisions setting forth special construction charges to the customer. Wireless ETCs, by contrast, are required to engage in a six-step process with the customer to explore ways to get usable signal to the customer’s residence. Although an ultimate solution may involve a charge to the customer, wireless carriers do not have tariffs

authorizing special construction charges and thus would, presumably, be disqualified from providing the supplemental discount proposed in the *NPRM*.

More fundamentally, wireless carriers are currently using high-cost support to increase the reach of their networks and expand service availability to more and more people. To the extent customers are not being reached by existing facilities, this impediment to subscribership is already being addressed via the High Cost program. The more basic problem is that many consumers who are within the reach of any telephone network cannot afford the monthly bill.

### **III. CONCLUSION**

The Companies fully appreciate the Commission's efforts in opening a comment process to consider additional Low Income support to address low telephone subscribership in insular areas. However, the specific remedy proposed does not get at the root of the problem – extraordinarily low income, which makes monthly phone bills unaffordable to many – and therefore is not adequate to fix it.

Any effective solution must include a Lifeline component. PR Wireless has made a reasonable proposal to adopt a modified form of Enhanced Lifeline and Link-Up. With discounts somewhat lower than those available in tribal areas, low-income consumers would be aided in their ability to access telephone service, and the burden on the USF would not be excessive

For all of the reasons set forth above, the Companies request that the Commission adopt an Insular Lifeline and Link-Up mechanism as suggested by PR Wireless, and to make the discounts under that mechanism available to qualifying low-income consumers in the USVI and American Samoa.

Respectfully submitted,

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AND AST TELECOM, LLC D/B/A  
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