

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

In the Matter of	)	
	)	
Telecommunications Carriers Eligible to	)	
Receive Universal Service Support	)	WC Docket No. 09-197
	)	
	)	
Petition for Forbearance of	)	
Zefcom, LLC d/b/a Telispire PCS	)	

**REPLY TO OPPOSITIONS TO PETITION FOR FORBEARANCE**

Zefcom, LLC d/b/a Telispire PCS (“Telispire”), by its attorneys, hereby responds to the Opposition of PlatinumTel Communications, LLC (“PlatinumTel”) and Comments of the National Association of State Utility Consumer Advocates (“NASUCA”) (collectively, “Oppositions”) filed in response to the above-captioned Petition for Forbearance (“Petition”). The Oppositions argue that the Petition is procedurally defective because Telispire does not identify each individual entity in the class of entities on whose behalf the Petition is filed. Identification of the individual entities that may take advantage of any forbearance relief granted pursuant to the Petition is not necessary for the Federal Communications Commission (“FCC” or “Commission”) to grant the requested relief and, absent any substantive opposition, the Petition should therefore be granted.

As NASUCA correctly notes, the Communications Act of 1934, as amended (“Act”), allows forbearance to be granted to a “class of telecommunications carriers or

telecommunications services.”<sup>1</sup> In its Petition, Telispire clearly identified the “class of telecommunications carriers” for which it seeks forbearance, specifically all Mobile Virtual Network Operators (“MVNO”). The Commission has found such identification to meet the requirements of the Act.<sup>2</sup>

NASUCA argues that “[a]bsent the filing of petitions by individual wireless resellers, the Commission will have no means of ensuring that any conditions are being met, much less which competitive ETCs are availing themselves of the forbearance order.”<sup>3</sup> To the contrary, as proposed in the Petition, entities seeking to avail themselves of forbearance relief would be required to comply with an extensive list of conditions<sup>4</sup> designed to ensure against waste, fraud and abuse, the same conditions the Commission has deemed satisfactory as applied to individual ETCs in prior forbearance orders.<sup>5</sup> To

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<sup>1</sup> NASUCA Comments at p. 2 (*quoting* 47 U.S.C. §160(a)). The FCC may grant forbearance for a class of carriers on its own motion. Nonetheless, Telispire, as a reseller of commercial mobile radio service to MVNOs, has the requisite standing to file the Petition.

<sup>2</sup> *See, e.g., Federal Communications Bar Association’s Petition for Forbearance from Section 310(d) of the Communications Act Regarding Non-Substantial Assignments of Wireless Licenses and Transfers of Control Involving Telecommunications Carriers and Personal Communications Industry Association’s Broadband Personal Communications Services Alliance’s Petition for Forbearance for [sic] Broadband Personal Communications Services*, Memorandum Opinion and Order, 13 FCC Rcd 6293 (rel. February 4, 1998) (“*FCBA Forbearance Order*”) (granting forbearance to “all telecommunications carriers licensed by the [Wireless Telecommunications] Bureau.”)

<sup>3</sup> NASUCA Comments at p. 3.

<sup>4</sup> *See* Petition at pp. 8-11.

<sup>5</sup> *See, e.g., Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petition for Designation as an Eligible Telecommunications Carrier in the State of New York; Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia; Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina; Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee*; CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) (“*Virgin Mobile Order*”); *Federal-State Joint Board on Universal Service; Telecommunications Carriers Eligible for Universal Service Support; i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, WC Docket No. 09-197, Order, 25 FCC Rcd 8784 (2010) (“*i-wireless Order*”); *Telecommunications Carriers Eligible for Universal Service Support; Federal-State Joint Board on Universal Service; Head Start Petition for Forbearance; Consumer*

determine which MVNOs are availing themselves of the relief granted in the forbearance order, the Commission need only request a list from USAC of all entities who are Competitive ETCs and have applied for Lifeline support. Should the Commission deem this insufficient or too burdensome, it may always add as a new condition a requirement that all carriers seeking to provide Lifeline pursuant to this forbearance order provide written notification to the Commission.

Noting that prior Lifeline forbearance orders have contained conditions and obligations that have been “tailored to the concerns arising from the carrier’s lack of facilities and proposed service offerings,” NASUCA claims that “Telispire would eliminate this important, particularized element of review of whether a grant of forbearance is merited and whether specific conditions, tailored to the individual carrier’s proposed service offering are necessary.”<sup>6</sup> NASUCA fails to recognize that the FCC has imposed the same core conditions on every forbearance grant issued, all “tailored to the concerns arising from the carrier’s lack of facilities and proposed service offerings.” Through its series of forbearance orders, the Commission has clearly indicated that such conditions are tailored to wireless resellers. Indeed, in its recently issued *Lifeline NPRM*, the FCC proposed to forbear from applying the Act’s facilities requirement to all carriers that seek limited ETC designation to participate in the Lifeline program and to allow

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*Cellular Petition for Forbearance; Midwestern Telecommunications Inc. Petition for Forbearance; Line Up, LLC Petition for Forbearance*, WC Docket No. 09-197, CC Docket No. 96-45, Order, 25 FCC Rcd 10510 (2010); *Telecommunications Carriers Eligible for Universal Service Support; Federal-State Joint Board on Universal Service; Conexions Petition for Forbearance*, WC Docket No. 09-197, CC Docket No. 96-45, Order, FCC 10-178 (rel. October 1, 2010) (“*Conexions Order*”).

<sup>6</sup> NASUCA Comments at p. 4.

every wireless reseller to be eligible to become an ETC so long as it fulfills the conditions the Commission previously imposed as conditions of forbearance.<sup>7</sup> Notably, one of the policies underlying this proposal is to alleviate the burdens on Lifeline applicants and the Commission that are associated with the current need to make a particularized showing:

Since 2005, the Commission has granted forbearance eight times to carriers seeking to participate in the Lifeline program without using their own facilities to provide service. In each case, the Commission has concluded that the use of a carrier's own facilities when participating in the Lifeline program is not necessary to ensure just and reasonable rates or to protect consumers and is in the public interest so long as the carrier granted forbearance fulfills certain conditions. And in each case, the reseller seeking to participate in the Commission's Lifeline program has gone through the same process: filing a forbearance petition with the Commission and responding to comments and concerns about that petition; filing a compliance plan with the Wireline Competition Bureau and responding to comments and concerns about that plan; and filing ETC designation petitions with the Commission or the states and responding to another round of comments and concerns. This multi-state process may take years to complete, costing companies time and money and placing a not insignificant burden on Commission resources.<sup>8</sup>

Accordingly, the Commission appears to have correctly recognized that requiring carriers to seek individualized forbearance in lieu of granting the generalized relief requested in the Petition makes no sense for carriers, the Commission, or the public.

Finally, NASUCA cites to the FCC's denial of petitions for forbearance for the purpose of offering Link-Up as support for NASUCA's contention that a more particularized pleading is required.<sup>9</sup> These cases are inapposite as in each case

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<sup>7</sup> See *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking, FCC 11-32, rel. March 4, 2011 ("*Lifeline Reform NPRM*") at par. 306.

<sup>8</sup> *Id.* at par. 304.

<sup>9</sup> NASUCA Comments at p. 4.

forbearance was denied because the applicant failed to make *any* showing that it met any of the Section 10 forbearance criteria *with respect to Link-Up*.<sup>10</sup>

The Oppositions fail to refute that the Petition meets each of the Section 10 criteria for granting forbearance or that grant of the requested forbearance serves the public interest. The Petition seeks relief that the Commission may grant under Section 10 of the Act, and as set forth fully in the Petition, it should do so.

Respectfully submitted,

**ZEFCON, LLC D/B/A  
TELISPIRE<sup>®</sup> PCS**

/s/

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Caressa D. Bennet  
Michael R. Bennet  
Bennet & Bennet, PLLC  
4350 East West Highway  
Suite 201  
Bethesda, MD 20814  
(202) 371-1500

Its Attorneys

April 4, 2011

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<sup>10</sup> *Conexions Order; i-wireless Order.*

CERTIFICATE OF SERVICE

I, Linda L. Braboy, of Bennet & Bennet, PLLC, 4350 East West Highway, Suite 201, Bethesda, MD 20814, hereby certify that a copy of the foregoing, Reply to Oppositions to Petition for Forbearance was served April 4, 2011, via first class U.S. Mail, on those listed below:

Glenn S. Richards  
Lauren A. Birzon  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street NW  
Washington D.C. 20037

David C. Bergmann  
Assistant Consumers' Counsel  
Chair, NASUCA Telecommunications Committee  
Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215-3485

NASUCA  
8380 Colesville Road, Suite 101  
Silver Spring, MD 20910

Nicholas A. Degani\*  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W. Room 5-B442  
Washington, DC 20554  
[Nicholas.degani@fcc.gov](mailto:Nicholas.degani@fcc.gov)

Charles Tyler\*  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 5-A452  
Washington, DC 20554  
[Charles.tyler@fcc.gov](mailto:Charles.tyler@fcc.gov)

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/s/  
Linda L. Braboy

\*Forwarded via email