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June 30, 2011

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: American Broadband & Telecommunications Petition for Forbearance
from Eligible Telecommunications Carrier Facility Requirements - WC
Docket No. 09-197**

Dear Ms. Dortch:

On February 25, 2011, American Broadband & Telecommunications (“American Broadband” or “Company”) filed a Petition for Forbearance (“Petition”) requesting the Federal Communications Commission (“FCC” or “Commission”) to forbear from enforcement of section 214(e)(1)(A) of the Act, which requires eligible telecommunications carriers to use their own facilities to provide services supported by the Universal Service Fund. The Commission issued a Public Notice seeking comment on American Broadband’s Petition and no comments opposing the Petition were filed.¹

On June 7, 2011, Jeffrey S. Ansted, President of American Broadband met with members of the Telecommunications Access Policy Division of the Wireline Competition Bureau to discuss the urgent need for additional wireless Lifeline services in its service area and to reiterate his request for expedited treatment of the Petition.

In order to provide wireless Lifeline services to eligible consumers in Ohio and other markets as soon as possible, American Broadband has prepared and submits the attached Compliance Plan for the Commission’s consideration and approval. This Compliance Plan reflects the conditions adopted in prior grants of forbearance to provide non-facilities based wireless services supported by Lifeline.² It is American Broadband’s

¹ *Wireline Competition Bureau Seeks Comments on American Broadband & Telecommunications Petition for Forbearance from Eligible Telecommunications Carrier Facilities Requirement*, Public Notice, DA 11-641 (rel. April 7, 2011).

² *See e.g., Virgin Mobile USA, L.P. Petition for Forbearance*, Order, 24 FCC Rcd 3381, ¶ 30 (2009) (“*Virgin Mobile Order*”); *i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214 (e)(1)(A)*, Order, FCC 10-117 (2010) (“*i-wireless Order*”).

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hope that, by providing the proposed Compliance Plan prior to the grant of its Petition, the Commission may review and approve the Compliance Plan simultaneously with its grant of the Petition and thereby allow the Company to begin providing service as soon as possible.

Furthermore, American Broadband applauds the Commission's recent efforts to reduce waste, fraud and abuse in the Lifeline program through its adoption of an interim order that will reduce duplicate support.³ American Broadband is also aware and supports the Commission's plans to further reform the program through its current Notice of Proposed Rulemaking Proceeding.⁴ American Broadband commits to complying with this and any further orders related to the Lifeline program and is committed to working with the Commission and USAC to reduce waste, fraud and abuse in the program.

In the interest of administrative efficiency, and of low-income consumers who would benefit from additional wireless Lifeline options,⁵ American Broadband urges the Commission to act promptly to grant its Petition and approve the Compliance Plan so that it may quickly initiate its wireless Lifeline services to low-income consumers. In particular, American Broadband reiterates its request that the Commission not take the entire year, plus three month extension, that is the outside deadline for action on forbearance petitions. Rather, American Broadband respectfully requests that the Commission consider and act on its Petition in conjunction with another similar petition due to be decided no later than September 30, 2011.⁶

³ See *Lifeline and Link Up Reform and Modernization*, Report and Order, FCC 11-97 (rel. June 21, 2011).

⁴ See *Lifeline and Link Up Reform and Modernization*, Notice of Proposed Rulemaking, 26 FCC Rcd 2770 (2011).

⁵ See Letter from Lucas County Department of Job and Family Services, WC Docket No. 09-197 (May 2, 2011) (addressing the "urgent need for [American Broadband's] proposed service in Ohio" and request for expedited processing of the petition); Letter from ODJFS Cuyahoga County, WC Docket No. 09-197 (May 3, 2011) (noting there is a "need for low-cost wireless telephone services in the state").

⁶ See *PlatinumTel Communications, LLC Petition for Forbearance*, Order, WC Docket No. 09-197, DA 11-1038 (June 9, 2011); see also *CAL Communications, Inc. Petition for Forbearance*, Order, WC Docket No. 09-197, DA 11-1119 (June 27, 2011) (extending deadline to review petition until November 4, 2011).

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If you have any questions, please do not hesitate to contact me at (202) 373-6117 or tamar.finn@bingham.com.

Very truly yours,

/s/ electronically signed

Tamar E. Finn
Kimberly A. Lacey

Attachment

cc (by e-mail):

Trent Harkrader
Kimberly Scardino
Divya Shenoy

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

_____)	
In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	WC Docket No. 09-197
)	
Petition for Forbearance)	
_____)	

**AMERICAN BROADBAND & TELECOMMUNICATIONS
COMPLIANCE PLAN**

Background

On February 25, 2011, American Broadband & Telecommunications (“American Broadband” or “Company”) filed a Petition for Forbearance (“Petition”) requesting the Federal Communications Commission (“FCC” or “Commission”) forbear from enforcement of section 214(e)(1)(A) of the Act, which requires eligible telecommunications carriers (“ETC”) to use their own facilities to provide services supported by the Universal Service Fund (“USF”). The Commission issued a Public Notice seeking comment on American Broadband & Telecommunications’ Petition and no comments opposing the Petition were filed.¹

Previously, when the Commission granted similar requests for forbearance, it has issued several conditions and required the carrier to file a Compliance Plan within 30 days outlining its procedures for complying with those conditions.² Typically, the Commission’s prior grants of

¹ *Wireline Competition Bureau Seeks Comments on American Broadband & Telecommunications Petition for Forbearance from Eligible Telecommunications Carrier Facilities Requirement*, Public Notice, DA 11-641 (rel April 7, 2011).

² *See e.g., Virgin Mobile USA, L.P. Petition for Forbearance*, Order, 24 FCC Rcd 3381, ¶ 30 (2009) (“*Virgin Mobile Order*”); *i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214 (e)(1)(A)*, Order, FCC 10-117 (2010) (“*i-wireless Order*”).

forbearance have been made subject to the following conditions: (a) provide Lifeline customers with 911 and Enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (b) provide Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) comply with conditions (a) and (b) as of the date the ETC provides Lifeline service; (d) obtain a certification from each PSAP where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access to self-certify that it does so if certain conditions are met; (e) require each customer to self-certify at the time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier; (f) establish safeguards to prevent customer from receiving multiple Lifeline subsidies from the carrier at the same address; and (g) deal directly with the customer to certify and verify the customer's Lifeline eligibility.³

The Petition filed by American Broadband is still pending with the Commission. However, due to the current harsh economic conditions throughout American Broadband service territories, there is an urgent need for these services. As such, American Broadband has prepared the following Compliance Plan, which complies with those conditions previously adopted in similar cases. American Broadband respectfully requests expeditious grant of its Petition and simultaneous approval of its proposed Compliance Plan.

COMPLIANCE PLAN

American Broadband commends the Commission's commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including

³ See *Virgin Mobile Order* at ¶¶ 22-23; *i-wireless Order* at ¶¶ 11-16.

Lifeline customers. American Broadband will comply with all conditions set forth in any Commission order granting its Petition, the provisions of this Compliance Plan, and all laws and regulations governing its provision of Lifeline-supported prepaid wireless service to customers throughout our service territories.

I. Access to 911 and E911 Services

American Broadband will be required to provide its Lifeline customers with access to 911 and E911 services immediately upon activation of service, and, in order to demonstrate compliance with the condition, American Broadband must obtain certification from each PSAP where it provides Lifeline service confirming that its customers receive 911 and E911 services. If within 90 days of American Broadband's request, a PSAP has neither provided the certification nor made an affirmative finding that the Company does not provide its customers with 911 and E911 services within the applicable service area, then American Broadband may self-certify that it meets the requirements.

The Commission and consumers are hereby assured that all American Broadband customers will have available access to emergency calling services at the time that Lifeline service is initiated, and that such 911 and E911 access will be available from American Broadband handsets, even if the account associated with the handset has no minutes remaining. American Broadband can ensure the Commission that all Lifeline customers will have meaningful access to emergency calling services at the time the customer activates Lifeline service, and that such access will continue regardless of the customer's account status or the availability of prepaid minutes.

The Company's existing practices currently provide access to 911 and E911 services to the extent that these services have been deployed by its underlying carrier, Sprint. American

Broadband also currently enables 911 emergency calling services for all properly activated handsets regardless of whether the account associated with the handset is active, suspended or terminated. Finally, the Company transmits all 911 calls initiated from any of its handsets even if the account associated with the handset has no remaining minutes.

American Broadband will implement the following measure prior to deploying Lifeline services in a given area. Initially, the Company will confirm that its underlying carrier has deployed E911 services in a specific PSAP territory. American Broadband will obtain the requisite certification from each PSAP where it provides Lifeline service confirming that its customers receive 911 and E911 services.⁴ If within 90 days of receiving the Company's request, a PSAP has neither provided such certification nor made an affirmative finding that the Company does not provide its customers with 911 and E911 services within the applicable service area, American Broadband will self-certify that it meets the basic and E911 requirements.

II. E911-Compliant Handsets

American Broadband & Telecommunications will ensure that all handsets used in connection with the Lifeline service offering will be E911-compliant. In fact, American Broadband's phones have always been and will continue to be 911 and E911-compliant. American Broadband uses phones from Sprint that have been through a stringent certification process in Sprint's handset certification lab, which ensures that the handset models used meet all 911 and E911 requirements. As a result, any customer that qualifies for and elects Lifeline service will already have a 911/E911-compliant handset, which will be confirmed at the time of enrollment in the Lifeline program. Any new customer that qualifies for and enrolls in the Lifeline program is assured of receiving a 911/E911-compliant handset as well, free of charge.

⁴ A form of PSAP certification is attached hereto Exhibit A.

III. Certification of Lifeline Customers' eligibility

To safeguard against misuse of the Lifeline service plan, the Commission will require American Broadband to deal directly with the customer and require each customer to self-certify under penalty of perjury at time of service activation and annually thereafter that they are the head of household and receive Lifeline-supported service only from American Broadband & Telecommunications. The Commission will also require American Broadband to establish safeguards to prohibit more than one supported American Broadband service at each residential address. American Broadband proposes the following plan to implement these certification and verification conditions:

A. Policy

American Broadband will comply with all certification and verification requirements for Lifeline eligibility established by the FCC and states where it is designated as an ETC. In states where there are no state imposed requirements, American Broadband will comply with the certification and verification procedures in effect in that state as reflected on the website of the Universal Service Administration Company. However, for any states which do not mandate Lifeline support and/or which do not have established rules of procedure in place, American Broadband will certify at the outset and will verify annually consumers' Lifeline eligibility in accordance with the Commission's requirements. American Broadband will enact the same stringent requirements of annual re-certification that it currently uses with its wireline Lifeline service offering. This process requires a customer signed, annual certification form to be entered into our systems prior to any benefits being extended for the next year. Lifeline benefits will not continue to be extended until all eligibility requirements are met.

American Broadband will also comply with the Commission's regulations to prevent duplicate payments and de-enrollment procedures.⁵ The Company will promptly cooperate with USAC and respond to any USAC notifications concerning duplicate payments and de-enrollment of customers. American Broadband commits to complying with any future orders related to the Lifeline program and is committed to working with the Commission and USAC to reduce waste, fraud and abuse in the program.

B. Certification Procedures

American Broadband will implement certification procedures that enable consumers to demonstrate their eligibility for Lifeline assistance by contacting American Broadband via telephone, facsimile, or the internet. At the point of sale, consumers will be provided with printed information describing American Broadband's Lifeline program, including eligibility requirements, and with instructions for enrolling. Consumers will be directed to a toll-free telephone number and to American Broadband's website, which will contain a link to information regarding the Company's Lifeline service plan, including a detailed description of the program and state-specific eligibility criteria. American Broadband understands and accepts the Commission's requirement that the Company have direct contact with all customers applying for participation in the Lifeline program. Retailers will have no role in the Lifeline application process, other than to provide customers with printed information regarding the program. Consumers will be required to call a toll-free number to complete an application over the phone. The application will then be mailed to the customer for signature under penalty of perjury and for the submission of supporting documentation. The signed application and support documentation

⁵ The Commission adopted new regulations and procedures on June 21, 2011. *See Lifeline and Link Up Reform and Modernization*, Report and Order, FCC 11-97 (rel. June 21, 2011).

must be mailed to the address provided by the Company. Processing of consumers' applications, including review of all application forms and relevant documentation will be performed under American Broadband's supervision by managers experienced in the administration of the Lifeline program. American Broadband will insure that all required documentation is taken care of properly by using state-specific compliance checklists.

In addition, the Lifeline application form will include a certification section where the applicant must attest and sign under penalty of perjury that the applicant meets the relevant eligibility criteria. For states with program-based eligibility criteria, the form will list each of the qualifying programs, and the applicant will be required to identify the program(s) in which they participate. For states with income-based eligibility criteria, the applicant will be required to certify under penalty of perjury that their household income does not exceed the relevant threshold (*e.g.*, 135% of the Federal Poverty Guidelines for federal default states) and will be required to provide proof of income-based eligibility. Applicants will also be required to certify under penalty of perjury that they are head of their household and receive Lifeline-supported service only from American Broadband. Penalties for perjury will be clearly stated on the certification form. Finally, the application forms will require each applicant to provide their name, primary residential address and an alternate telephone number (if any). American Broadband will incorporate this information into its customer information database. The Company will check the name and address of each Lifeline applicant against its database to determine whether or not it is associated with a customer that already receives American Broadband Lifeline service, and will then review the application to ascertain whether the applicant is attempting to receive Lifeline-supported service for more than one handset or

wireline associated with the address. American Broadband will deny the Lifeline application of any such individual and advise the applicant of the basis for the denial.

American Broadband shares the Commission's concern about abuse of the Lifeline program and is thus committed to the safeguards stated herein, with the belief that the procedures it will implement will prevent American Broadband customers from engaging in such abuse of the program. Because of American Broadband unique relationship with multiple government agencies throughout our service territory, we are also able to certify eligibility through default program participation as a majority of our current lifeline customers are direct referrals from agencies that provide benefits that qualify customers for Lifeline eligibility.

C. Verification Procedures

American Broadband will require every consumer enrolled in the Lifeline program to verify on an annual basis that they are the head of their household and only receive Lifeline service from American Broadband. American Broadband will notify, in writing, each participating Lifeline consumer on the anniversary of their enrollment that they must confirm their continued eligibility in accordance with the applicable requirements. Such verification will be required in order for the consumer to continue to purchase prepaid airtime from American Broadband at the discounted rate only available to those customers who are enrolled in its Lifeline program.

American Broadband submits that its Compliance Plan fully satisfies the conditions that have previously been set forth by the Commission in prior orders granting forbearance. Implementation of the procedures, outlined in this plan, will promote public safety and ensure that lifeline customers have access to 911 and E911 services while safeguarding against misuse of the company's Lifeline service benefits.

Conclusion

American Broadband respectfully requests that the Commission expeditiously approve its Compliance Plan so that the company may begin providing the benefits of Lifeline service to qualified low-income customers as soon as possible.

Respectfully submitted,

/s/ electronically signed

Tamar E. Finn
Kimberly A. Lacey
Bingham McCutchen LLP
2020 K Street, N.W.
Washington, DC 20006
Tel: (202) 373-6000

Dated: June 30, 2011

Exhibit A

Public Safety Answering Point Coordinator

[Address]

RE: Request for PSAP Certification for Lifeline Participation

Dear PSAP Coordinator:

This is to inform you that American Broadband & Telecommunications (“American Broadband”), has been designated an Eligible Telecommunications Carrier (“ETC”) by the Federal Communications Commission (“FCC”) for the purpose of offering reduced-cost service to low-income customers in the state of [State] under the federal Lifeline program. (See attached FCC Order _____ released _____.)

Lifeline ensures that low-income customers have access to quality telephone service at a reasonable, affordable rate, and American Broadband is pleased to be among the wireless carriers offering Lifeline service to low-income customers, particularly during this difficult economic environment.

The FCC’s approval for American Broadband to offer Lifeline service was conditional upon the following requirements: (1) offer 911 and enhanced 911 (E911) access immediately upon activation of service, and (2) provide its new Lifeline customers with E911-complaint handsets and replace, at no additional charge to the customer, noncompliant handsets of existing customers who subscribe to Lifeline service. The FCC further required that American Broadband seek certification from each Public Safety Answering Point (“PSAP”) where American Broadband intends to offer Lifeline service confirming that American Broadband provides its customers with 911 and E911 access. American Broadband is seeking this certification from your PSAP based on the information provided in this letter and any additional information you may request.

American Broadband wireless services operate on the Sprint Nextel (“Sprint”) network. As you may be aware, Sprint has completed the deployment of facilities necessary to offer Phase I and/or II E911 services in your service area, providing Sprint and American Broadband customers with 911 and E911 access. American Broadband Lifeline customers will enjoy this same access to 911 and E911 service once activated for service, regardless of activation status or availability of prepaid airtime. As required by the FCC, all American Broadband handsets will comply with applicable federal requirements governing the provision of 911 and E911 service. American Broadband will provide new Lifeline customers with E911-compliant handsets and, for existing customers who subscribe to Lifeline service, will verify that their handsets are E911-compliant or replace the handset at no charge to the customer.

For your convenience, enclosed is a certification form for your review and signature as PSAP Coordinator. Please return the signed certification form in the self-addressed stamped envelope. As required by the FCC, American Broadband will keep the certification on file in the event the FCC seeks to review this documentation. **If within 90 days of receipt of this letter, you do not provide the certification or make an affirmative finding that American Broadband does not provide its customers with 911 and E911 service in your area, American Broadband is permitted to self-certify compliance with the requirements for 911 and E911 access for this PSAP.** (See FCC order _____ at para. _____.)

Should you have any questions about the foregoing, please contact us at [email]. Please be sure to include your name and address in the email.

Thank you in advance for your cooperation and for enabling American Broadband to offer Lifeline service to low-income customers in your PSAP jurisdiction.

Sincerely,

American Broadband and Telecommunications Company

American Broadband & Telecommunications Lifeline Program

PSAP Certification Form

State of _____

PSAP Name: _____

PSAP Coordinator Name: _____

Business Address: _____

PSAP Jurisdiction Description: _____

In my capacity as the Coordinator for the Public Safety Answering Point (“PSAP”) described above, I am responsible for the implementation of 911 and Enhanced 911 (“E911”) service in accordance with the rules and regulations of the Federal Communications Commission (“FCC”).

I have been informed by American Broadband & Telecommunications (“American Broadband”) that, by Order dated _____, the FCC has designed American Broadband as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (47 U.S.C. § 214(e)(6)), for the limited purpose of providing Lifeline service in [State], among other states. I have further been informed that the FCC’s designation of American Broadband as an ETC is subject to certain conditions, including a condition that American Broadband must obtain certification from each PSAP where it will offer Lifeline service that American Broadband customers will have 911 and E911 access immediately upon activation of service.

In connection with its request for certification by the PSAP, American Broadband has provided certain information. I have been informed by American Broadband that its wireless service operates on the Sprint Nextel (“Sprint”) network. American Broadband has indicated that its Lifeline customers will have the same access to 911 and E911 service as the retail customers of Sprint. In addition, American Broadband has represented that its Lifeline handsets will comply with the FCC Order requiring that the handsets be capable of accessing 911 and E911 service regardless of activation status or availability of prepaid airtime.

Upon information and belief, in my capacity as PSAP Coordinator, I hereby certify that American Broadband has provided evidence that it is complying with the FCC requirement that it provide customers with access to basic and E911 service immediately upon activation of Lifeline service.

Dated: _____

Signature of PSAP Coordinator