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WIRELINE COMPETITION BUREAU SEEKS COMMENT ON PETITION TO CLARIFY PAYPHONE SERVICE PROVIDERS' RESPONSIBILITIES WITH RESPECT TO THE TRANSMISSION OF PAYPHONE-SPECIFIC CODING DIGITS

WC Docket No. 11-141

Comment Date: September 30, 2011
Reply Comment Date: October 17, 2011

The Wireline Competition Bureau seeks comment on a petition for declaratory ruling filed on August 9, 2011 by GCB Communications, Inc. d/b/a Pacific Communications and Lake Country Communications, Inc. (collectively, GCB), pursuant to section 1.2 of the Commission's rules.¹ In its petition, GCB requests that the Commission issue a declaratory ruling to respond to a referral from the United States District Court for the District of Arizona. The district court is presiding over a payphone compensation dispute involving GCB.²

Section 64.1300 of the Commission's rules, which implements section 276 of the Communications Act of 1934, as amended (the Act), provides that "a Completing Carrier that completes a coinless access code or subscriber toll-free payphone call from a switch that the Completing Carrier either owns or leases shall compensate the payphone service provider for that call at a rate agreed upon by the parties by contract" or, in the absence of a contract, "at a per-call rate of \$.494."³

In order to resolve a dispute about application of the Commission's payphone compensation rules, and at the request of GCB, the district court referred the following question to the Commission for a declaratory ruling in an order dated July 6, 2011:

¹ Petition of GCB Communications, Inc. d/b/a Pacific Communications and Lake Country Communications, Inc. for a Declaratory Ruling to Clarify Payphone Service Providers' Responsibilities with Respect to the Transmission of Payphone-Specific Coding Digits in Order to Receive Per-Call Dial-Around Compensation for Completed Calls (filed Aug. 9, 2011) (*Petition*); 47 C.F.R. § 1.2. Pursuant to section 1.2, the Commission may "on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty." 47 C.F.R. § 1.2.

² GCB filed a lawsuit against U.S. South Communications, Inc. (U.S. South) in federal court in Arizona, captioned *GCB Communications, Inc., d/b/a Pacific Communications; and Lake Country Communications, Inc. vs. U.S. South Communications, Inc.*, Docket No. 2:07-cv-02054-SRB. U.S. South appealed a ruling of the district court to the U.S. Court of Appeals for the Ninth Circuit. The Ninth Circuit reversed the district court's ruling and remanded the matter. The district court now refers a question to the Commission concerning application of its rules.

³ 47 C.F.R. § 64.1300.

If the Payphone Service Provider ('PSP') has ordered a payphone line from the serving Local Exchange Carrier ('LEC'), is the completing carrier obligated to pay the PSP per-call compensation for completed coinless calls made from that payphone line, and the PSP has no responsibility for the transmission and receipt of payphone-specific coding digits by the carriers in the call path[?]⁴

Interested parties may file **comments on GCB's petition on or before September 30, 2011**, and **reply comments on or before October 17, 2011**. All pleadings are to reference **WC Docket No. 11-141**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.⁵

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, D.C. 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, S.W., Washington D.C. 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563; and
- (2) Michele Levy Berlove, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C320, Washington, D.C. 20554; e-mail: Michele.Berlove@fcc.gov.

⁴ *Petition* at Ex. 1.

⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Red 11322 (1998).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpiweb.com.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁶ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.⁷ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.⁸

For further information, please contact Michele Levy Berlove, Competition Policy Division, Wireline Competition Bureau at (202) 418-1477 or TTY (202) 418-0484.

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⁶ 47 C.F.R. §§ 1.1200 *et seq.*

⁷ *See* 47 C.F.R. § 1.1206(b)(2).

⁸ 47 C.F.R. § 1.1206(b).