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October 6, 2011

VIA ECFS

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

Re: *Notice of Ex Parte* – WC Docket Nos. 11-42, 03-109 and CC Docket No. 96-45

Dear Ms. Dortch:

On Tuesday, October 4, 2011, Chuck Campbell of CGM and the undersigned, on behalf of the members of the Link Up for America Coalition ("Coalition"),[1] participated in a telephone conversation with Kim Scardino of the Wireline Competition Bureau to discuss proposed reforms to the Link Up component of the Commission's Low Income Universal Service program.

During the call, we discussed the Commission's proposed reforms to the Link Up subsidy program and the Coalition's Code of Conduct and Interim De-Duping Process self-regulatory initiatives designed to produce a significant near-term reduction in waste in, and substantial expenditure savings for, the Commission's Lifeline and Link Up programs. The Code of Conduct and Interim De-Duping Process were submitted with the Coalition October 3rd *Ex Parte*. Our comments were also consistent with the comments and replies filed by the Coalition on August 26, 2011 and September 2, 2011, respectively, in the above-captioned docket.

1 A member listing was provided in footnote 2 of the Coalition's October 3, 2011 *ex parte* submission. *See Ex Parte* Presentation of the Link Up for America Coalition, WC Docket No. 11-42 et al. at n.2 (Oct. 3, 2011) ("Coalition October 3rd *Ex Parte*").

In response to questioning from Ms. Scardino, we explained that Coalition members do indeed compete with each other in various markets and in many markets, such as Illinois, Louisiana and West Virginia, multiple Coalition members compete with each other. We also explained that the Pooled, Pre-Sale, Dupe-Check Database described in section f of the Coalition's self-regulatory de-duping process document would be implemented through the use of mobile Internet connectivity and would be completed before customers are signed-up for Link Up/Lifeline eligible services.

Mr. Campbell also explained how he arrived at the cost savings figures included in his October 3, 2011 declaration. Mr. Campbell estimated the savings to total $8.46MM for the five month period between November 1, 2011 and March 31, 2012. He used USAC's July-activation month data to identify the total number of new wireless Lifeline lines activated by Coalition members (86,485), and then increased it by the average rate of the total Coalition member line growth over the previous six month period (13.65%), in order to get an estimated total for August Coalition member new activations (98,290) and September Coalition member new activations (111,707). Mr. Campbell then applied a 20% factor to represent anticipated duplicates detected by the pre-sale, pooled database dip. For example, this equates to approximately 22,335 blocked duplicate activations based on estimated Coalition member line counts for September. Mr. Campbell monetized this impact by multiplying the block-able line count by a $30 Linkup subsidy ($670,050) and a $10 Lifeline subsidy ($223,350) to total approximately $893,400 of month-one (November) savings. To calculate month-two through month-five savings, Mr. Campbell applied a 14% monthly growth multiplier to the month-one block-able line count and calculated Link Up and Lifeline savings attributable to the new month's blocked lines. This total was then added to the previous month's Lifeline savings, as the monthly Lifeline outlay attributable to the blocked lines would build upon itself in each successive month if it were not initially blocked by the duplicate check database.

The Coalition further explained that we anticipate that additional ETCs will be announcing either through the Coalition or independently that they are committed to abide by the Coalition's Code of Conduct and to participate in the Coalition's Interim Pre-Sale De-Duping Process. We also explained that the Coalition has reached out to Nexus and invited that ETC to participate in these voluntary self-regulatory initiatives.

Our conversation with Ms. Scardino also included additional discussion regarding the feasibility (or infeasibility) of replacing the current Link Up revenue replacement mechanism with a funding mechanism more directly based on specific costs. In particular, we noted that, with the exception of handset support (once supported and presently not supported), the Commission has spoken broadly about the cost categories typically covered in some manner by a carrier's Customary Charge. The record clearly indicates that these charges include certain marketing and customer acquisition costs,[2] as well as costs associated with activating service and establishing a billing relationship. Costs associated with confirming customer creditworthiness or, alternatively, eligibility for low income support also are included. A rational, fact-driven case for moving any of these costs outside the scope of Link Up support simply has not been made in this docket.

Indeed, the Coalition and other commenters repeatedly have emphasized that limiting Link Up support would drive down subscribership levels for low income consumers by reducing the subsidies these customers rely on and in turn increasing the amount of costs/revenue requirements that must be passed through to the low income consumer in one rate element or another. Reducing subsidies results in higher rates and lower subscribership and thus would be contrary to the goals of the Fund.[3]

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[2] The record contains little in the way of actual cost information. If the Commission is inclined to pick-and-choose among costs, we respectfully submit that some marketing and customer acquisition costs are more worthy of Link Up support than others. For example, Coalition members reach their customer bases of low income consumers (many Lifeline eligible and some not) through in-person outreach efforts that provide an unmatched opportunity to educate consumers not only about Lifeline and Link Up eligibility, but also about how to use wireless handsets. These educational efforts have been recognized as being essential to the success of the Commission's Low Income Universal Service program and will become increasingly important as smart phone technology increasingly becomes the low income consumer's access method to broadband and the Internet. *See Lifeline and Link Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, FCC 04-87, ¶ 46 (2004) ("…carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service…For low-income consumers that live in remote areas, including those living on tribal lands, traveling throughout an area or setting up an information booth at a central location may be more suitable outreach methods."); and *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link Up*, WC Docket No. 03-109, Recommended Decision, FCC 10J-3, ¶ 64 (2010) ("The record also provides support for the role that community-based outreach can play in educating consumers about the Lifeline and Link Up programs.").

[3] *See* Comments of the Link Up for America Coalition, WC Docket No. 11-32 et al. at 5-6 (filed Aug. 26, 2011); Reply Comments of the Link Up for America Coalition, WC Docket No. 11-32 et al. at 6-7 (filed Sept. 2, 2011); Comments of Smith Bagley, Inc., WC Docket No. 11-42 et al. at 9 (filed Aug. 26, 2011); Comments of the California Public Utilities Commission, WC Docket No. 11-42 et al. at 8 (filed Aug. 26, 2011); Comments of CenturyLink, WC Docket No. 11-42 et al. at 4 (filed Aug. 26, 2011); Comments of Nexus Communications, Inc., WC Docket No. 11-42 et al. at 4 (filed Aug. 26, 2011); and Comments of Comptel, WC Docket No. 11-42 et al. at 7 (filed Aug. 26, 2011).

Finally, we also discussed the proposed definition of Customary Charge. The Coalition maintains that ETCs should be permitted to waive or credit the low income consumer's portion of such charges and that any definition change that would deny Link Up support based on an ETC's decision to do so would be unjustly discriminatory to low income consumers and the ETCs that serve them. Nearly every day, more affluent customers receive the benefit of having these charges waived or credited. Newspaper advertisements featuring "triple-play" offers frequently announce that such charges will not apply. Provided that the charge is assessed (or waived to comply with a state commission order), the Commission should leave the rest up to the ETCs and their customers. This hardly is the time to insist on the low income consumer "sharing the pain"; today's low income consumers find themselves in situations more dire than we've seen as a nation in generations. At the very least, the Commission should exempt waivers made pursuant to state commission orders.

In accordance with the Commission's rules, this letter is being filed electronically for inclusion in the public record of the above-referenced proceedings.

Respectfully submitted,

John J. Heitmann

cc: Kim Scardino