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FCC Mail Room

October 20, 2011

VIA OVERNIGHT DELIVERY

Ms. Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: *In the Matter of Toll Free Service Access Codes - CC Docket No. 95-155*

Request of Robert Liff for a declaratory ruling and extraordinary relief regarding the actions of PrimeTel Communications, Inc., involving the unlawful transfer of the toll free number 888-776-4737 directly between unrelated toll free service subscribers

Dear Ms. Dortch:

On behalf of PrimeTel Communications, Inc. ("PrimeTel"), enclosed for filing are the original and four (4) copies of its response to the above-captioned petition ("Petition") filed on behalf of Robert Liff ("Petitioner") on September 30, 2011.

Please affix and appropriate notation to the copy of this letter provided herewith for that purpose and return same in the enclosed self-addressed envelope.

Please contact the undersigned counsel if you have any questions regarding this matter.

Respectfully submitted,

Charles H. Helein (sa)

Charles H. Helein
Counsel for PrimeTel Communications, Inc.

Helein & Marashlian, LLC
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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *In the Matter of Toll Free Service Access Codes - CC Docket No. 95-155*

Request of Robert Liff for a declaratory ruling and extraordinary relief regarding the actions of PrimeTel Communications, Inc., involving the unlawful transfer of the toll free number 888-776-4737 directly between unrelated toll free service subscribers

Dear Ms. Dortch:

PrimeTel Communications, Inc. ("PrimeTel"), submits this response to the above-captioned petition ("Petition") filed on behalf of Robert Liff ("Petitioner") on September 30, 2011.

The Petition seeks a declaratory ruling which, under normal processing procedures, would be placed on public notice should the Commission find that there are issues raised concerning the public interest on which the comments of others than the principal parties need to be solicited. The normal processing procedures, however, do not apply here.

There are no issues that implicate public interests requiring the solicitation of public comment. The Petition is a sham attempt to avoid the applicable complaint processes of the Commission and filed for the sole purpose of securing a private business interest based on the Petitioner's self-interest. See The Attorney General's Manual on the Administrative Procedure Act (1947).

Agencies are authorized in the "sound discretion" to issue declaratory orders. They are not required to issue such orders merely because request is made therefore. Sen. Rep. p. 18; H.R. Rep. p. 31 (Sen. Doc. Pp. 204, 263). By "sound discretion," it is meant that agencies shall issue declaratory orders only under such circumstances that both the public interest and the interest of the party are protected. Thus, "a necessary condition of its [declaratory order] ready use is that it be employed only in situations where the critical facts can be explicitly [sic] stated ... Again, since the issuance of declaratory orders is a matter of sound discretion, it is clear that an agency need not issue such orders where it appears that the questions involved ..." where there is available some other statutory proceeding which will be more appropriate or effective under the circumstances. (at pp. 59-60, emphasis added.)

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There are important reasons that this Petition should not be given consideration. There is no public interest involved in this matter and the interest of the Petitioner is solely to obtain a direct assignment of a toll free number that is not consistent with the FCC rules. Equally controlling, not only is the statutory complaint process (Section 208 of the Act) the appropriate proceeding by which to consider Petitioner's private claim, it is the appropriate proceeding to develop explicit facts. Indeed the Commission's formal complaint procedures are specifically designed to develop explicit facts. In short, on several levels it would be an abuse of discretion to issue the declaratory ruling requested.

Extraordinary Relief Sought by Petitioner

In general, Petitioner asks the Commission for a declaratory ruling that the actions by PrimeTel¹ and others violated the Commission's regulations and policies for the administration of toll free telephone numbers. The Petition, ignoring the blatant self-serving purpose of Petitioner, claims that he was deprived of his right to a first-come, first-served opportunity to reserve the Number and outlandishly seeks to have the Commission aid in a violation of its own rules and policies by having the Commission order the transfer of a toll free number based solely on the Petitioner's personal business interests.²

Petitioner's Actions Leading Up to His Petition for Declaratory Ruling

Petitioner alleges that there was a direct transfer of the Number from one subscriber to another without the Number first having been placed in the spare pool, thereby violating the Commission's rules.³ The documented record shows that –

Petitioner "attempted to ... secure a particular toll free number: 888-776-4737"⁴

That Petitioner has admitted he acted to have the Number transferred directly to him bypassing the spare pool and admitted "I have been trying to get 888-776-4737 for over 6 months... I have been in contact with Verizon and their [sic] reseller ... I have spoken to Verizon and their [sic] reseller months ago. The reseller even told me I could have the number."⁵

¹ On March 23, 2011, PrimeTel responded to the informal complaint filed by Petitioner. In its response, which is part of the Enforcement Bureau's informal complaint record, PrimeTel stated that it was not then and never had been the RespOrg for the number at issue, 888-776-4734 ("Number"). That statement was true when made and remains true today.

² In addition, Petitioner seeks referral to the Enforcement Bureau for investigation and regulatory sanctions. Petitioner has already filed an Informal Complaint with the Commission and if he remains bent on pursuing his complaint he should have filed a formal complaint.

³ See Petition at para. 1.

⁴ See Notice of Intent to File Formal FCC Complaint dated May 2, 2011 sent by Robert J. Keller, counsel for Robert Liff, to Charles Helein, counsel for PrimeTel and Yorkshire Telecom, Inc. and Verizon's counsel, attached as **Exhibit A**.

⁵ Robert Liff's Answer to FCC Form 2000B Complaint # 11-C00278162-1 at ¶ 5, attached as **Exhibit B**.

Petitioner has persistently attempted to coerce PrimeTel, which was never the RespOrg for the Number, to make a direct transfer of the Number to him.⁶ Petitioner personally contacted PrimeTel and spoke to a representative in a very threatening manner and refused to listen when he was informed that PrimeTel was not the RespOrg of the Number and hung up before any further discussion was possible. Gary Hertigan was not and is not an employee or representative of PrimeTel.

Petitioner's ill-conceived odyssey began with an informal complaint against Primetel.⁷ PrimeTel responded to this complaint in a timely manner.⁸ PrimeTel did not make any false statements in their answer and did not withhold any information that was requested in the complaint. PrimeTel repeatedly informed Petitioner and his counsel that **PrimeTel was not ever the RespOrg responsible for the Number**. Petitioner ignored the fact that Primetel was not the RespOrg for the Number and continued to press his demands and continued his threats to file a formal complaint with the Commission. In response, **PrimeTel AGAIN advised that it was not the responsible RespOrg for the Number, and that Yorkshire Telecom was the RespOrg.**⁹

Petitioner's intent to coerce PrimeTel into aiding and abetting his purpose is all the more evident from his patent attempts to abuse the Commission's process. First, Petitioner filed an informal complaint. When that did not accomplish his objective, the threat was made to file a formal complaint. The requirements for filing a cognizable formal complaint are, however, very stringent. Consequently, no formal complaint was filed. Instead, Petitioner filed this Petition. However, it is evident that the Petition is a sham filing to escape not only the stringent requirements for filing a cognizable formal complaint, but also to avoid the fact that doing so is barred as a matter of law.¹⁰ Yet even a cursory reading of the Petition reveals that it is a complaint, a complaint involving a private dispute.¹¹

To support his Petition, the Declaration of Ms. Sylvia Newell is provided. However, the inclusion of this Declaration does nothing to show that Petitioner has any legitimate interest in the Number. Consider the following, Ms. Newell's Declaration claims that at some unspecified date, some unidentified person contacted the Declarant, allegedly identifying himself as "an advertising or marketing agent of some sort."¹² Declarant then states that she was told that the Number had been mistakenly used in some unidentified printed advertising and was requested to release the Number

⁶ "Under applicable FCC regulations, policy, etc., the direct transfer from [sic] a toll free number from one customer to an (unrelated) customer is not permitted." Email from Keller to Helein dated May 18, 2011, attached as **Exhibit C**.

⁷ See FCC advisory to Petitioner dated February 10, 2001, attached as **Exhibit D**.

⁸ See PrimeTel's response to the informal complaint attached as **Exhibit E**.

⁹ Counsel explained why the representation was made that PrimeTel was not involved in the transfer of the Number, which in fact it was not.

¹⁰ The statutory time period for filing a formal complaint has expired. See 47 C.F.R. 1.178.

¹¹ See Petition at footnote 1 wherein Petitioner "reserves the right to submit a formal complaint prior to the expiration of any applicable statute of limitation." The applicable statute of limitations is six months from the response date. See 47 C.F.R. § 1.718. PrimeTel responded to Petitioner's informal complaint on March 23, 2011, Verizon on April 8, 2011. In other words, Petitioner was required to file his formal Complaint on or before October 8, 2011. See also, Petition at pp. 2, 14-15.

¹² See Petition, Exhibit No. 8 at para. 4.

to which Declarant acceded still unaware of who was asking or in any way attempting to obtain any information about what was requested.¹³ What is known is that Declarant did complete and sign a LOA to port the Number to Yorkshire. Verizon did port the Number to Yorkshire because it had the authorization to do so. No employee or representative of PrimeTel made this contact with Declarant.

The foregoing facts demonstrate that there is no basis for a declaratory ruling. There are no facts that Petitioner has any legitimate interest in obtaining the Number. Even more decisively, the facts show beyond doubt that there is no public interest involved or even conceivable given Petitioner's purpose to have the Number for his personal use in "one or more business ventures."¹⁴

Commission's Authority to Reassign or Transfer the Number

Section 251(e)(1) the Communications Act gives the Commission exclusive jurisdiction over "those portions of the North American Numbering Plan that pertain to the United States."¹⁵ It is clear that toll free numbers are part of the North American Numbering Plan.¹⁶ It is also clear that neither carriers nor subscribers "own" their telephone numbers.¹⁷ Rather, courts have found that no one has a property interest in a telephone number¹⁸ and the Commission has adopted rules that dictate how subscribers obtain toll free numbers. In particular, section 52.101(e) of the Commission's rules provides that toll free subscribers must request a RespOrg to reserve a toll free number from the SMS/800 database.¹⁹ Thus, under the Communications Act, the Commission has exclusive jurisdiction to administer numbering resources and the assignment and transfer of toll free

¹³ *Id.*

¹⁴ See Petition at p. 5.

¹⁵ 47 USC § 251(e)(1).

¹⁶ See, e.g., *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Area Code Relief Plan for Dallas and Houston Ordered by the Public Utilities Commission of Texas, and Administration of the North American Numbering Plan*, CC Docket No. 96-98, Third Order on Reconsideration and Memorandum Report and Order, 14 FCC Rcd 17964, 17968, para.2, n.10 (stating, "[c]urrently, the North American Numbering Plan (NANP) area consists of the United States, Canada, and a number of Caribbean countries. There are geographic NPAs which correspond to discrete geographic areas within the NANP Area and non-geographic NPAs that are instead assigned for services that transcend specific geographic boundaries, such as NPAs in the toll free 800-number format.").

¹⁷ *Toll Free Service Access Codes*, CC Docket No. 95-155, Fourth Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 9058, 9061, n.14 (1998); see also *Toll Free Service Access Codes*, CC Docket No. 95-155, Notice of Proposed Rulemaking, 10 FCC Rcd 13692, 13702, para. 36 (1995); *Administration of the North American Numbering Plan*, CC Docket No. 92-237, Report and Order, 11 FCC Rcd 2588, 2591, para. 4 (1995). *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 20 FCC Rcd 15089, 15090-91, para. 4 (2005); *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 21 FCC Rcd 9925, 9927, para. 4 (2006); *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 22 FCC Rcd 651, 653, para. 7 (2007); *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 24 FCC Rcd 13022, 13029, para. 12 (2009) (pending on remand).

¹⁸ See, e.g., *StarNet, Inc.*, 355 F.3d 634, 637 (7th Cir. 2004).

¹⁹ A RespOrg is an entity chosen by a subscriber to manage its records in the toll free database. See 47 C.F.R. § 52.101(b), (e).

numbers is ultimately subject to the Commission's informed discretion to exercise in the public interest and not the personal interests of any entity or individual. This has been made abundantly clear by the fact that as shown below, the Commission has only twice before directed the assignment of toll-free numbers. And one of these assignments was vacated by the Court of Appeals for the District of Columbia Circuit ("D.C. Circuit").

800-RED-CROSS

The first time the Commission formally assigned a toll-free number involved the permanent reassignment of the 800/888-RED-CROSS numbers. Here, the Commission found that in the wake of Hurricanes Katrina and Rita the "permanent assignment of 1-800-RED-CROSS and 1-888-RED-CROSS to the American Red Cross will serve the overwhelming public interest in assisting the disaster recovery efforts of the Red Cross related to hurricanes and other natural disasters."²⁰ Specifically, the Commission found that "because of the critical need to ensure efficient, effective, and sufficient disaster relief operations, good cause exists for the permanent assignment of 1-800-RED-CROSS and 1-888-RED-CROSS to the national chapter of the American Red Cross."²¹ In short, the compelling public interest justified the Commission's extraordinary action of assigning the number.

800-SUICIDE

The second instance where the Commission took formal action involving number assignment involved the toll-free number 800-SUICIDE. In this case, the Kristin Brooks Hope Center ("Center"), a nonprofit organization that operated suicide prevention hotlines, was facing financial difficulties that risked causing the hotlines' disconnection. As a result, the federal Substance Abuse and Mental Health Services Administration ("SAMHSA") asked the FCC to reassign the Center's toll-free hotline numbers to SAMHSA arguing that a transfer would prevent disruption to the hotlines and the loss of life that might occur if the Center's service provider disconnected 1-800-SUICIDE. In response, the Wireline Competition Bureau granted a *temporary* reassignment of the three suicide prevention hotlines in January 2007 finding that given the ongoing dispute between the parties and the potentially tragic consequences of disruption, "a deviation from the first-come, first-served rule is warranted in this extraordinary, emergency situation."²² As a result, the Bureau ordered the requested temporary transfer.²³

That November, SAMHSA requested that the FCC make the reassignment of numbers permanent. The Center protested, but the FCC granted SAMHSA's request.²⁴ When explaining its

²⁰ In the Matter of Toll Free Service Access Codes, 21 FCC Rcd. 9925 (2006) ("Red Cross") at para 5.

²¹ Red Cross at para. 4.

²² *In the Matter of Toll Free Service Access Codes*, 22 FCC Rcd 651 (2007) ("Suicide Order").

²³ *Id.* at 8, 11 (In the *800-SUICIDE Order*, the Bureau temporarily reassigned the three Suicide Prevention Hotlines to SAMHSA, concluding that its action was "critical to minimize the potential loss of life due to callers in need being unable to connect immediately with a crisis center that can dispatch emergency services.").

²⁴ In the Matter of U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration Petition for Permanent Reassignment of Three Toll Free Suicide Prevention

permanent reassignment decision, the FCC said that its "overriding priority [was] the long-term stability of the Hotlines and, in turn, avoidance of another potential public safety crisis in the future."²⁵ To that end, it would "choose the entity [it] believe[s] is more capable of operating the Hotlines long-term."²⁶

The Center appealed the permanent assignment to the D.C. Circuit where the court found that in light of its failure to provide a reasonable explanation that connects the "facts found" and the "choice made,"²⁷ the FCC's decision was arbitrary and capricious. As a result, the court vacated the Commission's Order assigning the numbers and remanded the proceedings to the FCC which remain pending today.²⁸

In both the Red Cross and Suicide cases the Commission recognized the extraordinary action it was taking in assigning the numbers. In both cases, the Commission justified deviating from the first-come, first-served rule and reassigning toll free numbers from one organization to another because there were significant "compelling public interest benefits." The compelling public interest benefits surrounding the Red Cross and suicide prevention numbers are obvious. It is also obvious from the Commission's Orders and the D.C. Circuit's decision that the Commission's transfer of numbers should be done only when needed to avoid an imminent public safety crisis.²⁹

These two cases underscore the fact that Petitioner's private business interests are not the extraordinary circumstances that justify the exercise of the Commission's discretion to directly assign a number. Petitioner's claims that the Commission should transfer the Number because he was "deprived" of the Number should be an embarrassing demonstration of self-seeking made all the more fanciful because it is based on the unprovable fact that had the number been released into the spare pool, he would have obtained it. In short, there are no facts supporting:

- A public interest in Petitioner's obtaining the Number first;
- That petitioner would have obtained the Number if released to the spare pool at any time in the past or obtain it if released to the spare pool now.
- Petitioner's claim that he has been deprived of any right;
- That making a direct assignment in such circumstances would NOT open the flood gates to a never ending submission of petitions seeking direct assignments of numbers;³⁰

Hotline Numbers, 24 FCC Rcd. 103022, 10303 (2009).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Burlington Truck Lines*, 371 U.S. at 168, 83 S.Ct. 239.

²⁸ *Kristin Brooks Hope Center v. FCC*, 626 F.3d 586 (D.C. Cir. 2010) (*D.C. Court Remand*). For a complete history of the proceeding, see *Order and Request for Comment*, 26 FCC Rcd at 327-329, paras. 1-4.

²⁹ As the Commission itself has noted, "[o]ur role as a regulator does not, in the normal course, encompass choosing among parties seeking use of the same number." See 800-SUICIDE at 14.

³⁰ Consider Petitioner's statement that, "In the middle to late part of 2010, Liff became interested in obtaining the Number **for use in one of more business ventures.**" *Petition* at 11 (emphasis added).

- Any basis for the Commission to make a direct assignment in these circumstances.

Petitioner's attempt to cloak his self-seeking intent by asserting that "there are sufficient public interest grounds for granting" the transfer of the toll free number,³¹ is "supported" by the equally lame assertion that "[u]nless there is hope for some form of remedy or redress when members of the public have been wrongfully deprived of first-come, first-served access to toll free numbers, they will have no incentive to present complaints to the Commission."³²

There is no proof that these facts will discourage meritorious claims from being brought to the Commission, in particular because this is anything but a meritorious claim. Petitioner brought his complaint to the Commission and then intentionally attempts to circumvent the Commission's rules applicable to complaints.

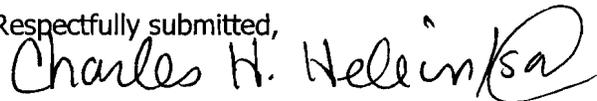
Conclusion

The final facts the Commission should consider are these. After tirelessly explaining that what Petitioner demanded PrimeTel do could not be done because PrimeTel was not the RespOrg for the Number, Petitioner was asked point blank what Petitioner wanted. In response, Petitioner's counsel emailed, Petitioner "wants the number."³³ This of course was not an option for PrimeTel.

For the foregoing reasons and facts, the Petition must be dismissed because it is a poorly disguised attempt to avoid the requirements of the proper statutory proceedings. Whatever rights Petitioner may have to complain are now barred as a matter of law. The Commission has an interest in seeing that its processes are not abused. Petitioner has brought his complaints to the Commission and intentionally intends to circumvent the complaint process.

In conclusion, the Petition must be rejected out-of-hand.

Respectfully submitted,



Charles H. Helein
Counsel for PrimeTel Communications, Inc.

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Direct assigning numbers for such private and general interests will eradicate the Commission's authority to manage this resource in the public interest.

³¹ Petition at para. 32.

³² *Id.*

³³ See email from Keller to Helein dated May 31, 2011 attached as **Exhibit F**.

Certificate of Service

I, Charles H. Helein, counsel for PrimeTel Communications, Inc. in the above referenced matter, hereby certify that on this 20th day of October, 2011, I caused copies of this letter to be served on the following via first class U.S.P.S., postage prepaid:

Robert J. Keller
Law Offices of Robert J. Keller, P.C.
P.O. Box 33428
Washington, DC 20033

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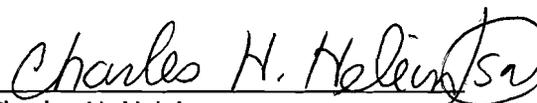
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Charles H. Helein

EXHIBIT

A

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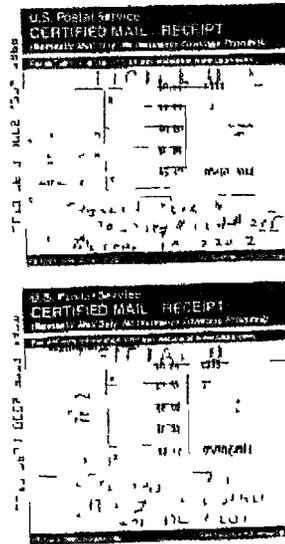
Of Counsel to:
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Washington, D.C. 20036-5803

May 2, 2011

VIA CERTIFIED MAIL
(courtesy electronic copies sent via email)

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Helein & Marashlian, LLC
1420 Spring Hill Road – Suite 205
McLean, Virginia 22102

Kathleen Grillo, Esq.
Verizon
1300 I Street, N.W. – Suite 400 West
Washington, D.C. 20005



Notice of Intent to File Formal FCC Complaint
(re: IC Number 11-C00278162)

Dear Mr. Helein and Ms. Grillo:

You are listed in Federal Communications Commission records as the agents for service for PrimeTel Communications, Inc., and Verizon, respectively. Pursuant to Section 1.721(a)(8) of the FCC Rules and Regulations, 47 C.F.R. § 1.721(a)(8) (2010), I am sending this letter to give notice that my client, Mr. Robert Liff, is prepared to file an FCC formal complaint against PrimeTel and Verizon, the substance of which is summarized herein. While I am hopeful this can be averted, Liff will move forward with the formal complain unless this matter can be satisfactorily resolved within twenty (20) days from the date of this letter.

The subject matter of the complaint was previously stated in an informal complaint filed by Liff and served by the FCC under IC Number 11-C00278162. A copy of the informal complaint and the responses submitted by PrimeTel on March 23, 2011, and by Verizon on April 8, 2011, are attached to this letter for your reference.

Liff will show the following in his formal complaint:

- Liff attempted to have his RespOrg secure a particular toll free number: 888-776-4737. The RespOrg advised that the number was not then available for assignment, but had gone into “disconnect” status on or about October 6, 2010. The listed RespOrg for the number at that time was Verizon or a Verizon affiliate (RespOrg code VZW01). Liff contacted the toll free service provider for the number, a reseller of Verizon service, and learned that the number had gone into disconnect status because the toll free service subscriber had terminated service and, apparently, gone out of business.
- Relevant FCC regulations require that, with very limited exceptions, toll free numbers be released back into the spare pool four (4) months after going into disconnect status, whereupon they are to be available for all potential subscribers equally on a first-come, first-served basis. The number in question therefore should have been released to the spare pool on or about February 6, 2011. Liff directed his RespOrg to attempt to reserve the number as soon as possible upon its going spare.
- On January 24, 2011—prior to expiration of the specified four month period—the number was placed in “reserved” status, and PrimeTel or a PrimeTel affiliate (RespOrg code YLC01) became the RespOrg for the number. On January 26, 2011, the status of the number was changed first to “assigned” and then to “working.” On good faith belief, and based on information learned from the previous toll free service provider, the number was not reserved for or on behalf of the entity that was the toll free service subscriber at the time the number went into disconnect status.
- In their responses to the informal complaint, defendants were misleading and lacking in candor. PrimeTel stated that it has “never been the RespOrg of the ... number.” In fact PrimeTel or a PrimeTel affiliate has been the RespOrg for the number since January 24, 2011.* Similarly, Verizon stated that the number “was never owned by Verizon.” But Verizon is well aware that, under established FCC policy, toll free numbers are a public resource that are not “owned” by anyone—not the carrier, RespOrg, or the subscriber. The statement was therefore at best a meaningless tautology and at worst an exercise in deceit. Verizon or a Verizon affiliate was the RespOrg for the number at the time it went from working to disconnect status. Verizon is therefore either responsible (in whole or in part) for the number not having been returned to the spare pool or it may have relevant knowledge regarding that failure. It was disingenuous for Verizon to have withheld from the FCC its role as the former RespOrg for the number.

You are both familiar with the applicable FCC regulations, policy statements, SMS tariff provisions, and other toll free number administration authorities and provisions, so I will not rehearse the full legal argument here. Suffice it to say that (a) the number was improperly withheld from the spare pool; (b) Verizon and PrimeTel were the successive RespOrg at the time the number was transitioned

* RespOrg Code YLC01 refers either to PrimeTel, a PrimeTel affiliate, or an entity acting on behalf of PrimeTel. We also have information that PrimeTel is using multiple RespOrg entities to circumvent applicable FCC toll free number administration regulations and policies, including rationing procedures for 855 numbers. This will be developed in the formal complaint.

Charles H. Helein & Kathleen M. Grillo
May 2, 2011
Page 3

from disconnect to working status without having gone spare; and (c) because of defendants' misconduct, Liff was deprived of a right guaranteed by the FCC's toll free number administration scheme, namely, a fair and equitable first-come, first-serve opportunity to reserve a number after the prior subscriber terminated toll free service.

I look forward to discussing this matter with you in the hope that it can be resolved without further litigation. Failing a satisfactory resolution, however, we will submit a formal complaint on or shortly after May 23, 2011.

Very truly yours,

A handwritten signature in black ink that reads "Robert J. Keller". The signature is written in a cursive style with a long, sweeping underline.

Robert J. Keller
FCC Counsel for Complainant

cc (via email): chh@commlawgroup.com
kathleen.m.grillo@verizon.com

EXHIBIT

B

User complaint number: 11-C00278162-1

Carrier: PrimeTel Communications, Inc.

Form 2000B – Billing, Privacy, or Service Quality Complaint

Consumer's Information:

First Name: **Robert** Last Name: **Liff**

Company Name:

(Complete only if you are filing this complaint on behalf of a company or an organization.)

Post Office Box Number:

(Official Post Office box Number Only)

Address 1: **11 Saupe Drive**

Address 2:

Mailing Address (where mail is delivered)

City: **Manalapan** State: **NJ** Zip Code: **07726**

Telephone Number (Residential or Business): **(917) 941 - 4286**

E-mail Address: **rs1711@aol.com**

*** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT ***

1. Telephone number(s) involved (including area code): **(888) 776 - 4737**

2. What is the name of the telephone company, wireless carrier, or other company that is the subject of your complaint?: **Prime Tel and Verizon**

3. What is the account number that is the subject of your complaint?:

4. If you are disputing charges on a telephone bill, complete the following:

a. Disputed amount: \$ **0.00**

b. Have you paid any of the disputed charges?: **false**

c. Did the billing company adjust or refund the disputed charges?: **false**

d. If yes, what was the amount of the adjustment or refund?: \$ **0.00**

e. Are the disputed charges related to additional services?: **false**

If yes, please explain:

5. For billing and non-billing complaints (including privacy and service quality issues) please provide the details of your complaint or any additional information below: **I have been trying to get 888-776-4737 for over 6 months. I have been in contact with Verizon and their reseller and was told I had to wait the proper time until they can get me that number. I even had a outside company tell me the same. If you check the history of the number you will see that Verizon illegally transferred that number to Prime Tel. They did not wait the proper grace period and the number never went spare. I have proof (e-mails)that I have spoken to Verizon and their reseller months ago.The reseller even told me I could have the number but they no longer had control over it and I had to go back to Verizon and they told me talk to the reseller. All I wanted was a equal and fair opportunity to get this number and that didnt happen.**

EXHIBIT

C

Charles H. Helein

From: Robert J. Keller [rjk@telcomlaw.com]
Sent: Wednesday, May 18, 2011 3:42 PM
To: Charles H. Helein
Subject: RE: Liff/Primetel

minor correction:

1. For purposes of our discussion (i.e., without conceding anything), we can assume that the LOA executed by the former customer for the number was ~~validly~~ timely executed.

From: Robert J. Keller [mailto:rjk@telcomlaw.com]
Sent: Wednesday, May 18, 2011 3:40 PM
To: Charles H. Helein
Subject: Liff/Primetel

Chuck,

To briefly summarize the points I stated our telephone conversation:

2. For purposes of our discussion (i.e., without conceding anything), we can assume that the LOA executed by the former customer for the number was validly executed.
3. But, that would simply have authorized the porting of the number from one RespOrg to another.
4. The fact remains that the number was then transferred to a different customer, i.e., the former customer is no longer the customer.
5. Under applicable FCC regulations, policy, etc., the direct transfer from a toll free number from one customer to an (unrelated) customer is not permitted.
6. Rather, if toll free service is discontinued for any reason, then unless it is re-established by the discontinued customer within a specified period of time (I believe 4 months, but I am not stopping to look up the provisions right now), the number must drop back into the spare pool and become available to all potential users on a first-come, first-serve basis.
7. My client wanted to acquire this number and monitored its status. He knew it was in disconnect status and, absent re-establishment of service by the terminated customer, would have gone spare.
8. Because the number was transferred and reactivated to a new user without going spare, he was deprived of the first-come, first-serve opportunity guaranteed by the rules.

Without going into details, if we need to proceed with a formal complaint, I believe we can also offer evidence probative of the following facts:

- a. There is in fact a relationship between Yorkshire and Primetel.
- b. The LOA, even assuming it was validly and timely executed by the former customer of the number, was secured under false pretenses.
- c. A few other things that I am either not at the liberty or choose not to disclose at this stage.

Finally, a copy of the February decision to which I referred is attached.

I am still hopeful that we can negotiate a resolution that will save both our clients from the expense of a formal complaint proceeding.

—
Bob Keller <rjk@telcomlaw.com>

Law Offices of Robert J. Keller, P.C.
PO Box 33428, Washington DC 20033
www.telcomlaw.com | 202.656.8490

EXHIBIT

D



**Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Inquiries and Complaints Division
445 12th Street, SW., Room 5-A847
Washington, DC 20554**

Date:02/10/2011

**ROBERT LIFF
11 SAUPE DRIVE
MANALAPAN, NJ 07726**

Dear Consumer:

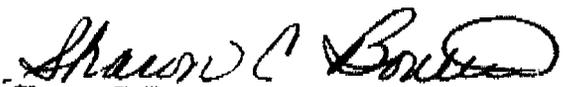
Re: Complaint # 11-C00278162-1

This letter is in response to your complaint filed with the Federal Communications Commission (FCC). We are reviewing your complaint and will contact you if any further information is needed. Thank you for filing.

For your convenience, a copy of your complaint information has been attached for your records. Please note that if your complaint was transferred to a different form, other than the one on which it was originally captured, copies of both forms will be attached. Please use the complaint number referenced above in lieu of any previously provided complaint number.

If you have further questions please feel free to visit the Consumer & Governmental Affairs Bureau's website at www.fcc.gov/cgb or call us at 1-888-CALL-FCC (1-888-225-5322) voice; 1-888-TELL-FCC (1-888-835-5322) TTY.

Sincerely,


Sharon C. Bowers, Acting Division Chief
Consumer Inquiries & Complaints Division
Consumer & Governmental Affairs Bureau

User Complaint Key: 11-C00278162-1**Form 2000B – Billing, Privacy, or Service Quality Complaint****Consumer's Information:**First Name: **Robert** Last Name: **Liff**Company Name:
(Complete only if you are filing this complaint on behalf of a company or an organization.)Post Office Box Number:
(Official Post Office box Number Only)Address 1: **11 Saube Drive** Address 2:
Mailing Address (where mail is delivered)City: **Manalapan** State: **N.J.** Zip Code: **07726**Telephone Number (Residential or Business): **Phone:(917) 941 - 4286**E-mail Address: **rsi711@aol.com******* ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT *****

1. Telephone number(s) involved (including area code): **Phone:(888) 776 - 4737**
2. What is the name of the telephone company, wireless carrier, or other company that is the subject of your complaint?: **Prime Tel and Verizon**
3. What is the account number that is the subject of your complaint?:
4. If you are disputing charges on a telephone bill, complete the following:
 - a. Disputed amount: **\$ 0.00**
 - b. Have you paid any of the disputed charges?:
 - c. Did the billing company adjust or refund the disputed charges?:
 - d. If yes, what was the amount of the adjustment or refund: **\$ 0.00**
 - e. Are the disputed charges related to additional services?:
If yes, please explain:

User Complaint Key: 11-C00278162-1

Form 2000B - Billing, Privacy, or Service Quality Complaint
***** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT *****

5. For billing and non-billing complaints (including privacy and service quality issues) please provide the details of your complaint or any additional information below:
I have been trying to get 888-776-4737 for over 6 months. I have been in contact with Verizon and their reseller and was told I had to wait the proper time until they can get me that number. I even had a outside company tell me the same. If you check the history of the number you will see that Verizon illegally transferred that number to Prime Tel. They did not wait the proper grace period and the number never went spare. I have proof (e-mails) that I have spoken to Verizon and their reseller months ago. The reseller even told me I could have the number but they no longer had control over it and I had to go back to Verizon and they told me talk to the reseller. All I wanted was a equal and fair opportunity to get this number and that didnt happen.

You may submit this form over the Internet at <http://www.fcc.gov/cgb/complaints.html>, by e-mail to fccinfo@fcc.gov, by fax to 1-866-418-0232, or by postal mail to:

Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Complaints
445 12th Street, SW
Washington, D.C. 20554

In addition, you may submit your complaint over the telephone by calling 1-888-CALL-FCC or 1-888-TELL-FCC (TTY). If you choose to submit your complaint over the telephone, an FCC customer service representative will fill out an electronic version of the form for you during your conversation. If you have any questions, feel free to contact the FCC at 1-888-CALL-FCC or 1-888-TELL-FCC (TTY).

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT AND THE PRIVACY ACT

The Federal Communications Commission is authorized under the Communications Act of 1934, as amended, to collect the personal information that we request in this form. This form is used for complaints that involve billing, privacy, or service quality. The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden

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User Complaint Key: 11-C00278162-1**Form 2000B – Billing, Privacy, or Service Quality Complaint******* ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT *****

estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, OMD-PERF, Paperwork Reduction Project (3060-0874), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND YOUR COMPLETED FORMS TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0874.

In addition, the information that consumers provide when filling out FCC Form 2000 is covered by the system of records notice, FCC CGB-1, Informal Complaints and Inquiries File (Broadcast, Common Carrier, and Wireless Telecommunications Bureau Radio Services). The Commission is authorized to request this information from consumers under 47 U.S.C. 206, 208, 301, 303, 309(e), 312, 362, 364, 386, 507, and 51; and 47 CFR 1.711 et seq.

Under this system of records notice, FCC CGB-1, the FCC may disclose information that consumers provide as follows: when a record in this system involves a complaint against a common carrier, the complaint is forwarded to the defendant carrier who must, within a prescribed time frame, either satisfy the complaint or explain to the Commission and the complainant its failure to do so; where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be referred to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation, or order; a record from this system may be disclosed to a Federal agency, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation, or order; a record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit; a record on an individual in this system of records may be disclosed, where pertinent, in any legal proceeding to which the Commission is a party before a court or administrative body; a record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body when: (a) the United States, the Commission, a component of the Commission, or, when represented by the government, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Commission determines that the disclosure is relevant or necessary to the litigation; a record on an individual in this system of records may be disclosed to a Congressional office in response to an inquiry the individual has made to the Congressional office; a record from this system of records may be disclosed to GSA and NARA for the purposes of records management inspections conducted under authority of 44 U.S.C. 2804 and 2906. Such disclosure shall not be used to make a determination about individuals.

04/18/2011 05:27 7327928337

User Complaint Key: 11-C00278162-1

Form 2000B – Billing, Privacy, or Service Quality Complaint
***** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT *****

In each of these cases, the FCC will determine whether disclosure of the information in this system of records notice is compatible with the purpose for which the records were collected. Furthermore, information in this system of records notice is available for public inspection after redaction of information that could identify the complainant or correspondent, i.e., name, address and/or telephone number.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507 AND THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. SECTION 552a(e)(3).

EXHIBIT

E

PRIMETEL COMMUNICATIONS

106 South 7th Street 2nd Floor
Philadelphia, PA 19106
Phone - 888-774-6383
Fax - 888-329-1122

March 23, 2011

Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Inquiries and Consumer Complaints
445 12th Street, SW 5-A847
Washington, D.C. 20554

Re: PrimeTel Communications, Inc., IC Number 11-C00278162

Attention Federal Communications Commission:

PrimeTel Communications, Inc. (PrimeTel) hereby responds to the above actioned informal complaint.

PrimeTel has never been the resporg of the toll free telephone number 888-776-4737.

If we may provide any further information or if there are any questions regarding this matter, kindly contact the undersigned at 888-774-6383.

Respectfully submitted.


Jennifer Luna

PrimeTel Communications

Cc: Robert Liff

EXHIBIT

F

From: Bob Keller [<mailto:rjk@telcomlaw.com>]

Sent: Tuesday, May 31, 2011 2:30 PM

To: 'Charles H. Helein'

Subject: [SPAM] RE: Liff Claim

Chuck,

Sorry for delay in getting back to you. Was out of pocket for a few days and am now getting involved in an unrelated hearing matter, so I sort of got sidetracked. What Liff wants, of course, is the number. He believes he was improperly deprived of first-come, first-serve access to it when it was transferred away from the former subscriber without first dropping to spare, and would like that to have Primetel &/or Yorkshire remedy that by facilitating his acquisition of the number.

--
Bob Keller <rjk@telcomlaw.com>

Law Offices of Robert J. Keller, P.C.

PO Box 33428, Washington DC 20033-0428

Tel 202.656.8490 Fax 202.223.2121

From: Charles H. Helein [<mailto:chh@commlawgroup.com>]

Sent: Friday, May 20, 2011 5:16 PM

To: 'Robert J. Keller'
Subject: Liff Claim

Bob:

We are completing our review of the situation and have concluded that our client has done nothing wrong. However, it recognizes that a formal complaint will involve expense and time. So I've been instructed to ask you what it is you and/or your client wants us to do. Please advise.

Charles H. Helein
Helein & Marashlian, LLC
The *CommLaw* Group
1420 Spring Hill Road, Suite 205
McLean, Virginia 22102
Office/All Hours Tel: 703-714-1301
Office Fax: 703-714-1330
Mobile: 703-297-7011
Email: chh@commlawgroup.com
Web site: www.commlawgroup.com

Ask about our firm's fixed-fee regulatory compliance services offered through our *Compliance* Division.

Pursuant to Treasury Regulations, any U.S. federal tax advice contained in this communication, unless otherwise stated, is not intended and cannot be used for the purpose of avoiding tax-related penalties.

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