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VIA ELECTRONIC FILING

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

Re: *Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Petition of Consumer Cellular for ETC Designation in the States of Connecticut, Florida, New York, North Carolina, Tennessee, and the Commonwealth of Virginia; Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Notice of Ex Parte*

Dear Ms. Dortch:

On December 20, 2011, Consumer Cellular, Inc. (“Consumer Cellular” or “CCI”) met with Kimberly Scardino, Divya Shenoy, and Garnet Hanly of the FCC regarding Consumer Cellular’s still-pending Compliance Plan, filed on August 27, 2010, pursuant to the Commission’s order granting Consumer Cellular’s Petition for Forbearance. Consumer Cellular also discussed issues relating to public safety requirements that mobile virtual network operators (“MVNOs”) must satisfy in order to participate in the Lifeline program. Representing Consumer Cellular were David Gusky, Vice President, and the undersigned attorney.

In July of 2010, Consumer Cellular received forbearance from the facilities requirements of Section 214(e)(1)(A) for the purpose of being designated an ETC for Lifeline-only purposes.¹ In accordance with the Commission’s grant of Consumer Cellular’s Petition for Forbearance, Consumer Cellular filed a Compliance Plan with the Commission on August 27, 2010.

¹ *Telecommunications Carriers Eligible for Universal Service Support; Federal State Joint Board on Universal Service, Petitions for Forbearance of Head Start, Consumer Cellular, Midwestern Telecommunications, and Line Up, LLC, Order, FCC 10-134, 25 FCC Rcd. 10510 (rel. July 30, 2010) (“Consumer Cellular Forbearance Order”).*

Consumer Cellular's Compliance Plan was put on Public Notice on August 31, 2010, and the comment cycle closed on October 15, 2010.²

Consumer Cellular's Compliance Plan has yet to be approved, and, in light of the above-referenced rulemaking to reform the Lifeline Program, Consumer Cellular understands that it will have to file a revised Compliance Plan. In the meeting with Commission staff, Consumer Cellular noted that it would comply with all Commission rules regarding verification of eligibility for consumers seeking to purchase Consumer Cellular's Lifeline Service. However, Consumer Cellular noted that it would likely first focus its deployment of Lifeline services on those states that perform their own eligibility verifications or have electronic verification procedures which ETCs can utilize. Consumer Cellular believes that it can best meet its customers' needs by being able to process service requests as efficiently as possible.

Consumer Cellular also explained that, as part of its revised Compliance Plan, it would be seeking a firm-specific waiver request of condition 4 of the Consumer Cellular Forbearance Order. This condition requires that Consumer Cellular,

[o]btain a certification from each public-safety answering point (PSAP) where the carrier provides Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certify that it does so if certain conditions are met. . . .

This condition was included in the original TracFone ETC Designation Order,³ and was likely intended to be a substitute for the Commission's general ETC obligations, applicable to facilities-based carriers. However, because MVNOs have no control over the networks of their underlying network provider, it is only important that the underlying facilities-based network provider be in compliance with the Commission's rules for facilities-based ETCs.

Consumer Cellular has a long history of providing service over the AT&T Mobility Network, and currently serves approximately 700,000 customers as a non-ETC MVNO. Consumer Cellular is not aware of ever having to address a 911 or E911 related complaint from any customer, or any state, or federal regulatory authority.

² *Comment Sought on Plans of Head Start Telecom, Inc., Consumer Cellular, Inc., and Line Up, LLC, to Comply with the Conditions of Their Limited Forbearance*, DA 10-1661 (rel. August 31, 2010).

³ *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc., Petitions for Designation in the States of Alabama, Connecticut, Delaware, Florida, North Carolina, New Hampshire, New York, North Carolina, Tennessee, and Washington, DC, and the Commonwealths of Massachusetts, Pennsylvania, and Virginia*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008). (“*TracFone ETC Designation Order*”)

To most efficiently allow for market entry of future competitive Lifeline-only MVNO ETCs, Consumer Cellular proposes that the Commission accept a simple certification by the underlying facilities provider, noting that the facilities provider routes the 911/E911 traffic of its MVNOs in exactly the same manner as its own retail customers' traffic. A sample of such a certification, provided by AT&T to TracFone is attached.

While it is difficult to see the utility of this requirement at any point (given that MVNOs have no responsibility, nor ability to control traffic routing over the network of their wireless wholesale partners), the effect of continuing this requirement would place a profound, competitively-consequential, burden on MVNOs seeking to provide Lifeline service through the Commission's forbearance process. Were the Commission to continue to impose this requirement indiscriminately on all MVNOs, the smallest MVNOs would doubtless be foreclosed from market entry, and providing consumer choice, in all but the largest markets in the country.

The readers of *Consumer Reports* Magazine recently selected Consumer Cellular as the wireless service provider with which customers were most satisfied.⁴ The *Consumer Reports* survey validated that MVNOs can provide excellent service options for consumers. Unfortunately, such companies would have a far more difficult time delivering these benefits if unnecessary obstacles impeded their entry into the market. The "PSAP notification" requirement is clearly one of these obstacles in that it forces MVNOs such as Consumer Cellular to needlessly spend time and resources to complete a task that, at this point in time, has no public policy value. For these reasons, Consumer Cellular plans to request a waiver of this requirement when it submits its revised Compliance Plan.

Sincerely,



Jonathan D. Lee
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⁴ See, <http://news.consumerreports.org/electronics/2011/12/att-rated-lowestagainin-our-annual-satisfaction-survey.html>