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January 23, 2012

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: Smith Bagley, Inc.
WC Docket No. 11-42 and 03-109

Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, we hereby provide you with notice of an oral ex parte presentation in connection with the above-captioned proceeding. On January 19, 2012, undersigned counsel, on behalf of Smith Bagley, Inc. ("SBI"), met separately with Zac Katz and Christine Kurth, to discuss universal service support on tribal lands.

SBI discussed the extraordinary economic conditions present on the five Native American lands that it serves, which compel the need for Lifeline reform to focus support to areas most in need. On Navajo, for example, many homes continue to lack access to basic services, including power, plumbing and telecommunications. Many housing units are located away from roads, in areas that present substantial challenges for traditional utilities to string power and telephone wires.

Many of these households are poverty-stricken. They often include the elderly, adults and children within the same unit, or community of units. When adults leave for any reason, they must have a mobile telephone to remain in communication with the home, and to make other calls. That creates a significant health and safety benefit at the home, which is left without telephone service.

To remedy this situation, SBI reiterated its prior advocacy that the Lifeline should support service to “one per adult” on tribal lands in situations where the household income is below the federal poverty rate. Funding one per adult would further the Congressional goal of providing these citizens with access to modern telecommunications services that are reasonably comparable to others across the country.

SBI suggested that if a full measure of enhanced Tier 4 support is not made available to these households, then alternatively the Commission could provide an additional ten dollars (\$10.00) of support to enable households to afford wireless family plans which share minutes. By adding just ten dollars to this program for tribal households below the poverty line, the Commission would enable carriers to increase the number of shared minutes and improve the lives of low-income tribal citizens. This opportunity should not be permitted to pass.

In response to a question at the meeting, SBI provides information from its April 21, 2011 comments in the above-captioned proceedings. There, SBI estimated that roughly 40% of its 55,000 tribal Lifeline customers, or about 22,000 households, are below the poverty line and eligible to be enrolled. Assuming a 100% take rate, and assuming a full \$35.00 Lifeline subsidy were provided, this would increase program costs by approximately \$9 million per year,¹ or just over one tenth of one percent of the \$8 billion dollar universal service fund. The current tribal participation rate in Lifeline is approximately 32%, so the more likely financial requirement would be just over \$3 million per year.

SBI also noted that nationwide, tribal poverty levels are approximately 25%.² Using a nationwide tribal population of approximately 2.1 million, this implies that there are about 525,000 people living in poverty, or approximately 185,000 households.³ If one additional adult in each household were provided tribal lifeline service, again, assuming a 100% take rate, the additional program funding would be \$77,700,000 (185,000 x \$35 x 12). Using the current 32% take rate, the funding requirement would be approximately \$24,864,000, or three tenths of one percent of the entire program size.

If the Commission adopted SBI’s alternative, to add \$10.00 to the tribal Lifeline program for households below the poverty line, then the estimated cost of a 100% take rate would be \$2,640,000 for SBI’s service area and \$22,200,000 nationwide. Using a 32% take rate, the figures would be \$844,800 and \$7,104,000, respectively.

SBI also presented data from its customer service center providing customer responses to the question whether a second phone is needed in the household. There are dozens of stories set

¹ 22,000 x \$35 x 12 = \$9,240,000.

² See U.S. CENSUS BUREAU, *The American Community—American Indians and Alaska Natives: 2004*, American Community Survey Reports at 16 (2007), <http://www.census.gov/prod/2007pubs/acs-07.pdf>.

³ U.S. Census data indicated an American Indian and Native American population of 2.1 million in 2004, an estimated poverty rate of 25% and average household size of 2.85 persons. See *id.* at 1-2, 10.

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forth therein demonstrating the critical health and safety needs that are currently unmet by the program, problems rarely seen in the rest of the country where access to telecommunications services is much more robust.

In sum, targeting Lifeline funding to communities most in need best furthers program goals. Improving health and safety of Americans living in poverty, in remote areas, with limited access to telecommunications, must be a top priority.

If you have any questions or require any additional information, please contact undersigned counsel directly.

A copy of materials distributed at the meetings is enclosed for the record.

Sincerely,



David A. LaFuria
Counsel for Smith Bagley, Inc.

cc: Zac Katz, Esq.
Christine Kurth, Esq.

Enclosures

Smith Bagley, Inc.

FCC Ex Parte Meetings

January, 2012

WC Docket No. 11-42

WC Docket No. 03-109

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In Qualifying Low-Income Tribal Households, Lifeline Support Should be Provided “One Per Adult”

- SBI proposes that “one per adult” should apply to tribal households at or below the federal poverty threshold.
- Extraordinary circumstances outlined in SBI comments – one line in a household insufficient from health/safety perspective.
- See attached testimonials from SBI Lifeline customers.
- Households above poverty line - one per household.
- Estimated \$25 M per year in increased Lifeline nationwide.

Annual Self-Certifications on Tribal Lands

- SBI is a small company with 60,000 Lifeline accounts.
- New rules for annual self-certification must take into account unique and extraordinary circumstances on reservation lands.
- Many citizens face insurmountable burdens to provide physical certifications annually.
- On reservation lands, continuation of current verification procedures, providing statistically valid sample, is possible.

Treatment of Duplicates

- When duplicate subscriptions are discovered, and the customer fails to make a timely selection, the carrier who had the customer first must retain the subscriber.
- Providing a residential address is helpful to minimize duplicates, however most of Navajo does not have residential addressing system that provides useful data.

Other Issues

- Preserve tribal Lifeline and Linkup. Both are critical to maintaining subscribership.
- Carriers providing tribal Linkup must be able to recover extra costs of connecting subscribers, such as education at point of sale.
- Cost of audits can be severe to small carriers.
- Successful audits should lead to fewer audits in future.



Questions

Testimonials

grandma has grandkids in sports she said several times kids missed the bus and because she did not have a phone to call her it made the whole experience scary, 2 phones would be better for her household but cannot afford to be on a plan.

Would help to keep a phone at home for family in case of emergencies.

IT WILL BENEFIT OUR FAMILY BY CONTACTING THE ELDERLY PEOPLE IN OUR FAMILY WHO JUST STAY HOME.

Would like for husband to have another vision one phone does qualify but share same household. Love the service we get with cellular one!

WHEN EMERGENCIES COME UP THIS WILL HELP FOR EVERY FAMILY. EVEN IN THE COLD WEATHER PEOPLE WILL NOT FREEZE AND NOT BE LEFT BEHIND ANYMORE.

in most cases it is a multi-family household that have multi-families in a household in most situations and in most cases there are no landlines in the home. Because it's so rural it's helpful to communicate together if you are traveling alone.

EVERY HOUSEHOLD NEEDS MORE THAN ONE VISION ONE ACCOUNT BECAUSE MOST FAMILIES LIVE FAR FROM A TOWN AND ARE UNABLE TO PAY FOR REGULAR PHONES. MY SONS TRIED TO GET AN ACCOUNT BUT DUE TO THE ONE PER HOUSEHOLD I'M UNABLE TO CONTACT THEM ON A DAILY BASIS.

Good idea keep in contact with one another used for emergencies if any or every day usages.

For work and personal use I use this phone, however we are only allowed one per household, we have 5 adults over 18 in our house and only allowed one phone from the government we cannot afford a postpaid phone

Second line would be useful to make sure my daughter is safe and know she got home safely while I'm at work, she is 19 years old and we cannot afford a high priced phone plan.

You could easily leave one at home use as a home phone or message number the other one you can take everywhere with you.

I STAY IN CONTACT WITH FAMILY. I USE MY PHONE TO CONTACT MY SON IN PHOENIX. MY FAMILY IN MY HOUSEHOLD WOULD ALSO LIKE TO SIGN UP FOR THE SERVICE TO CONTACT OTHER FAMILY MEMBERS

We all take turns caring for disabled mother and we all need to contact each other when traveling or working to make arrangements.

HARD TO FIND A JOB SO THE VZ1 PHONE HELPS WITH KEEPING IN CONTACT WITH MY FAMILY THAT LIVE SO FAR AWAY.

We share one phone now and my wife works an hour away. It is hard to make sure she is safe.

Use to keep in touch with other companies for work so I take it as my phone but my wife can't have one, this is bad.

MR. HAROLD SAID THAT HE HAS KIDS THAT ARE 18 AND UP WHO WANT THE VISION 1 PHONE BUT CANNOT GET IT BECAUSE IT'S ONLY ONE PER HOUSEHOLD THEY WANT TO BE ABLE TO KEEP IN TOUCH WITH ONE ANOTHER.

CUSTOMER STATED SHE LIVES WITH GRANDSON. SHE WOULD LIKE TO ADD AN ADDITIONAL V1 PHONE FOR HIM SO SHE COULD HAVE CONSTANT COMMUNICATION WITH HIM.

VISION ONE KEEPS ME IN CONTACT WITH FAMILY AND FRIENDS WHO LIVE IN GANADO. IT'S RELIABLE IN RURAL AREAS WHERE OTHER CARRIERS FAIL. OTHER ADULTS IN MY FAMILY WOULD LIKE TO SIGN UP BECAUSE THEY HAVE VERIZON.

JANE SAID THAT SHE LOVES THE IDEA OF HAVING MORE THAN JUST ONE PER HOUSEHOLD BECAUSE SHE HAS NO ONE TO CALL IN CASE OF AN EMERGENCY.

Some of us can't pay a monthly charge, but the vision one service helps the unemployed

CUSTOMER STATED SHE IS ONLY IN NEED OF ADDITIONAL LINES FOR HER KIDS. THEY ARE INVOLVED IN AFTERSCHOOL ACTIVITIES AND NEED A WAY OF COMMUNICATION

Need to keep in contact with blind elder sister while away getting supplies from nearest market about 15 miles away. Sister has no way to contact family when alone.

said it would work for him and his wife if they both had one that way when away from each other they can still keep in contact

Only phone that really works on the Reservation and we only get one it's hard to be confident that my wife is ok when I take the phone

My son who is over 18 and still lives at home needs one for college as he is going to school near our home, but we can't communicate because I have a Viision 1 phone and he can't have one although he lives at home

It would be nice to have more phones in the house for all, we all have to travel far and we are only allowed one phone from the government on the special plan, it has helped us tremendously but we all need one in the house.

SHE THINKS THAT THE HUSBAND AND WIFE SHOULD HAVE ONE SO THEY CAN STAY IN TOUCH WHEN SHE IS WORKING

I would like for the adult in my household get a phone. For instance, my sister, who is in school. She does not have a phone. I need to stay in contact with her . She may need to stay after and we the family have no idea If she has a ride or if she is on her way home.(because of safety issues.)

Oran likes the idea of having every adult in the house hold to be able to have a visionone service due to there are no landlines in Hotevilla and there are many homes there that have elders. Many with no caregivers. Having a cell phone would help very much with keeping in contact for emergencies.

CUSTOMER LIVES IN KAIBETO, AZ. SHE HAS KIDS THAT LIVE IN PAGE, AZ THAT ARE UNDER THE AGE OF 18. SHE WOULD LIKE TO BE ABLE TO GET THEM PHONES SO SHE CAN COMMUNICATE WITH THEM.

Mr. Mike stated that the Vision 1 plan per adults in a household rather than one per is a great idea, EVERY ADULT IN ALL FAMILIES SHOULD HAVE ONE BECAUSE IT WILL HELP CONNECT FAMILIES MORE TOGETHER.

It's the only way of keeping in contact with my employer which means I must take the phone and my family is without any communication

I personally wouldn't need another one but know plenty of friends and family who only have one now but could use an additional phone in household. One is just not enough when they have 4 or 5 adults living in the home.

would be very helpful if both adults in household could get freedomfones

Only phone I have to communitcate with family. No Landline phone there fore my family is without a phone when I am traveling

VISION ONE HAS HELPED ME SAVE MONEY AND CONTIUES TO. IF MY FAMILY MEMEBERS HAVE THIS SERVICE WE WOULD BE ABLE TO FIND ONE ANOTHER ON DAYS THAT WE HAVE EMERGENICES

said she would like to get her husband one....work is far from home and its better to know everything is being taken care of with out having to worry at work

CUSTOMER STATED SHE WOULD LIKE TO ADD V1 PHONE FOR HER SON WHO RIDES THE BUS HOME.

VISION ONE REINSURES ME THAT MY KIDS ARE SAFE AT HOME WHEN I'M NOT THERE WITH THEM.

VISION ONE HELPS MY DISABLED NEIGHOBOR AND WHEN HE NEEDS HELP I CONNECT WITH HIM. WITH OUT VISION ONE SERVICES, I THINK OTHERS IN HIS HOUSEHOLD SHOULD BE ABLE TO SIGN UP FOR SERVICE BECAUSE OF EMERGENICES THEY MAY COME ACROSS.

TERRANCE SAID HE WOULD LIKE THE IDEA OF LETTING MORE THAN ONE FAMILY MEMBER SIGN UP UNDER THE SAME HOUSEHOLD FOR IN CASE OF SAFTERY REASON AND HES NOT HOME TO CALL FOR HELP.

Only way to keep in touch with family and friends, with only one phone we have to share it when we leave the house

Reasonable for all adults to have a Vision 1 in a houshold, communication reasons, reasonable price, one phone is not enough for safety reasons

states that it would help IMMENSELY if every adult in her household were able to get a subsidized phone.

Because my mother is elderly and she likes to stay home a lot and most of we take our phone. And she is home with no way to contact her and we do not have landlines to our house.

I would love to have 2 Per house, one to stay at the house for the elderly and one for contacting them when I am away.