

LUKAS, NACE, GUTIERREZ & SACHS, LLP

8300 GREENSBORO DRIVE, SUITE 1200
MCLEAN, VIRGINIA 22102
703 584 8678 • 703 584 8696 FAX

WWW.FCCLAW.COM

RUSSELL D. LUKAS
DAVID L. NACE
THOMAS GUTIERREZ*
ELIZABETH R. SACHS*
DAVID A. LAFURIA
PAMELA L. GIST
TODD SLAMOWITZ*
BROOKS E. HARLOW*
TODD B. LANTOR*
STEVEN M. CHERNOFF*
KATHERINE PATSAS NEVITT*

CONSULTING ENGINEERS
ALI KUZEHKANANI
LEILA REZANAVAZ
—
OF COUNSEL
GEORGE L. LYON, JR.
LEONARD S. KOLSKY*
JOHN CIMKO*
J. K. HAGE III*
JOHN J. MCAVOY*
HON. GERALD S. MCGOWAN*
TAMARA DAVIS BROWN*
JEFFREY A. MITCHELL*
ROBERT S. KOPPEL*
MARC A. PAUL*
—
*NOT ADMITTED IN VA

January 24, 2012

VIA ELECTRONIC FILING

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

Re: *Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42;*
Federal-State Joint Board on Universal Service, CC Docket No. 96-45;
Lifeline and Link Up, WC Docket No. 03-109

Dear Madam Secretary:

Yesterday, the undersigned, behalf of PR Wireless, Inc. d/b/a Open Mobile (“PR Wireless”), met with Patrick Halley, Jamie Susskind and Divya Shenoy of the Telecommunications Access Policy Division of the Wireline Competition Bureau. We discussed several aspects of Lifeline and Link Up reform that are being considered in the above-referenced dockets, as summarized below.

By way of introduction, we discussed PR Wireless’ activities as a provider of mobile wireless telecommunications service in Puerto Rico. We explained that the company has been an eligible telecommunications carrier (“ETC”) for purposes of support from the High Cost and Low Income Programs of the federal Universal Service Fund (“USF”) as well as the Puerto Rico Universal Service Fund since 2007.

We also discussed PR Wireless’ leading role in making wireless telephone service accessible in rural, high-cost areas, and affordable to low-income citizens. We noted that PR Wireless is fully committed to a no-contract business model with unlimited local calling. We explained that the company’s consumer-friendly pricing structure and diligent efforts in making discounts available to low-income residents have enabled it to more than double its subscriber base in the last three years. We noted that as of December 31st, 2011, PR Wireless has more than

138,000 Lifeline customers, which represents more than 30 percent of total Lifeline customers served by all carriers in Puerto Rico, wireless and wireline *combined*.

We described PR Wireless' conscientious fulfillment of its program obligations. We noted that the company has 20 call-center employees dedicated to reaching out to Lifeline customers to obtain additional address details and other information for purposes of identifying and resolving duplicates. We also discussed the company's customer verification process, which currently involves sending more than 10,000 recertification letters each month in compliance with the Puerto Rico Lifeline verification rules. We noted that PR Wireless continues to increase the size of its Lifeline-dedicated staff as needed to meet demand.

The Commission Should Retain the One Per Subscriber Rule

We discussed PR Wireless' position in favor of retaining the one-per-subscriber requirement adopted in the June 2011 *Lifeline Duplicate Order*.¹ We described how a prohibition against discounted phones used by multiple Lifeline-eligible consumers *within the same household* would disqualify large numbers of eligible individuals who have a legitimate need for discounted telecommunications service. We discussed how, in a prior age when landline phones dominated, it might have made sense to have a rule to ensure consumers didn't have multiple subsidized lines in their house. However, a one-per-household restriction would make no sense in a world where consumers increasingly choose mobile wireless as their primary form of communication. We discussed a recent study by the Centers for Disease Control ("CDC") showing that more than 30% of adults live in households with only wireless telephone service.² According to the same study, adults living in poverty (46.8%) or near poverty (38.1%) are more likely to live in wireless-only households than adults on average (27.7%). We noted that because low-income populations rely disproportionately on mobile wireless phones, a subsidized phone cannot be seen as a means of connecting their *household*; rather, it is a means of connecting the *individual* – enabling the individual to network, arrange job interviews, and make other essential calls while going about their daily business inside or outside the home.

We discussed how in Puerto Rico, where poverty is high and the landline network never reached the penetration levels of the mainland U.S., reliance on mobile wireless communications is even more pronounced. We noted that while roughly 66% of households in the U.S. have a

¹ *Lifeline and Link Up Reform and Modernization; Federal-State Joint Board on Universal Service*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, *Order*, FCC 11-97 (June 21, 2011) ("*Lifeline Duplicate Order*").

² *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January-June 2011* ("CDC Survey"), accessed at <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201112.pdf>.

landline phone,³ in Puerto Rico the percentage has steadily declined and sat at approximately 22% as of November 2011.⁴ At the same time, we noted that wireless penetration in Puerto Rico has been rising steadily and is just above 82%.⁵ We discussed the fact that people rely more on mobile wireless service in Puerto Rico than on the mainland because employment and household income are lower. We noted that the unemployment rate in Puerto Rico in November 2011 was 15.7 percent, compared to an unemployment rate of 8.7 percent for the United States as a whole,⁶ and that the median income for households in Puerto Rico is \$18,862,⁷ compared to a median income of \$50,046 for all households in the United States.⁸

In addition, we noted that households are increasingly made up of multiple adult generations, a living arrangement in which multiple telephones is a critical necessity. We discussed a recent Pew Research Center publication showing that the number of Americans living in multi-generational households surged between 2007 and 2009 from 46.5 million to 51.4 million.⁹ We noted that the leap in the number of American adults living in multi-generational households accompanied the precipitous drop in employment and household income that defined the recession during that time. The same publication showed that in 2009, of the 11.9 million households that were multi-generational, the majority (6.9 million) consisted of two adult generations.¹⁰ We noted that many of those in multi-generational households are young adults who lived independently but have moved back in with their parents after having difficulty securing employment. We discussed the need for such individuals to have access to a phone that they may use inside or outside their home.

³ See CDC Survey at Table 1 (Percent distribution of household telephone status for households, adults, and children, by date of interview: United States, January 2008–June 2011.)

⁴ Statistics of the Telecommunications Regulatory Board of Puerto Rico, *Líneas Alámbricas e Inalámbricas Noviembre 2011* at p. 4 (Total de Líneas Alámbricas por cada 100 Habitantes en Puerto Rico - Años 2000-Noviembre 2011), accessed at http://www.jrtrp.gobierno.pr/download.asp?cn_id=1372.

⁵ See *id.* at p. 3 (Total de Líneas Inalámbricas por cada 100 Habitantes en Puerto Rico - Años 2000-Noviembre 2011).

⁶ Bureau of Labor Statistics, *United States Economy at a Glance*, accessed at <http://www.bls.gov/eag/eag.us.htm>.

⁷ United States Census Bureau, *2010 American Community Survey 1-Year Estimates*, accessed at <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

⁸ United States Census Bureau, *2010 American Community Survey 1-Year Estimates*, accessed at <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

⁹ “Fighting Poverty in a Bad Economy, Americans Move In With Relatives,” Pew Research Center, Oct. 3, 2011, accessed at <http://www.pewsocialtrends.org/2011/10/03/fighting-poverty-in-a-bad-economy-americans-move-in-with-relatives/>.

¹⁰ See *id.*

Any Restriction Beyond the Individual Subscriber Must Be Carefully Crafted

We discussed PR Wireless' position that, if the Commission nonetheless adopts a one-per-household rule, such a restriction must be crafted in a way that is not overly broad. We emphasized that PR Wireless is opposed to a definition that would equate household with a customer's billing address or residential address, as any such definition would result in the unjustified disqualification of large numbers of Lifeline-eligible consumers. We noted that even if the Commission makes exceptions or adopts special procedures for particular circumstances, such as group homes, there will nonetheless be widespread cases of multiple households having the same residential address.

We described how in Puerto Rico, the danger of unfair disqualifications would be particularly great. We noted that many rural areas of Puerto Rico are very poor and lack the road infrastructure of higher-income areas, and that people in these areas tend to lack traditional addresses and instead have Rural Route or Highway addresses. We also discussed the recent GCI ex parte letter opposing the limitation of Lifeline to one per address.¹¹ We noted that, as in Alaska, people in Puerto Rico who actually reside in different structures often have the same rural route or share a P.O. Box address. We noted that these addresses are not specific to the house or other residential structure, but represent mile markers on a road where people from different residences pick up their mail – yet in audit inquiries by the Telecommunications Regulatory Board of Puerto Rico (“TRB”), many such addresses have been flagged as duplicates when in fact they represent separate residences.

We also provided statistical information on a confidential basis showing the extent to which a restriction equating household to residential address would be overly broad. Of 138,000 total Lifeline customers, PR Wireless estimates that approximately [REDACTED], or approximately [REDACTED] percent, have Rural Route or Highway addresses. Of these, PR Wireless estimates that approximately [REDACTED]% would be disqualified by a restriction equating their postal address to a household. We described how these numbers demonstrate that an address-based definition of household would disqualify thousands of eligible customers, which would not be the case if the Commission establishes a nuclear family policy or some other definition of economic unit.

We discussed PR Wireless' position that, instead of limiting Lifeline to one per household, it should be limited to one per eligible adult. We noted that such a restriction would have a naturally self-limiting effect by virtue of the limitations of the assistance programs that qualify consumers for Lifeline.¹² We noted that any resulting increase in Lifeline

¹¹ See letter from John T. Nakahata, counsel to General Communications, Inc., to Marlene Dortch, FCC, filed in WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (Jan. 13, 2012) (“GCI Letter”).

¹² See letter from Cathy Carpino, AT&T, to Marlene Dortch, FCC, filed in WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (Nov. 7, 2011) at p. 3.

reimbursements would be more than offset by savings from extending the federal Lifeline duplicate resolution process to all states, as discussed below.

We also noted that GCI recently advocated a “one-per-qualifying-adult rule (at least in Tribal areas), or, at most ... a limitation based on the consumers’ economic units, with a nuclear family as a safe harbor.”¹³ We noted PR Wireless’ position that if a one-per-qualifying-adult rule is adopted for Tribal lands, it would be essential to extend it to Puerto Rico, which has economic and infrastructure conditions similar to many Tribal areas.

Resolution of Lifeline Duplicates

We discussed PR Wireless’ support for the use of a centralized database to resolve duplicates; ultimately, a comprehensive database may be developed to avoid duplicates in the first instance. In the near term, we discussed PR Wireless’ position that it is essential to extend the federal interim duplicate resolution process (“IDRP”) to all states as a means of cutting down on waste, fraud and abuse of the Low Income program. Also, we discussed the importance of an explicit ruling by the Commission making clear that the IDRP or similar federal duplicate resolution process shall have preemptive effect over state procedures that involve the same subscribers. We discussed the Commission’s statement in its *Lifeline Duplicate Order* that it is important to have a uniform federal procedure to govern the resolution of duplicate federal discounts.

Proposed Modifications to Low Income Payment Process

We emphasized that PR Wireless supports the efforts by the Commission and by USAC to improve the accuracy and efficiency of the Low Income payment process. However, PR Wireless submits that USAC’s proposed transition to a system based on actual claims would disrupt reimbursements to Lifeline providers and place them at an unfair disadvantage. PR Wireless would support a payment mechanism that is based on actual claims, but the transition must be done in a way that does not leave a large gap in payments to Lifeline providers. To avoid such a disruption, USAC should be required to expedite the processing of the first payment that is paid on actual claims, making the payment 16 days after the filing of the claims.

In addition, we discussed PR Wireless’ position that the Commission should reject USAC’s proposed one-way For 497 revision window in favor of a uniform two-year window akin to that used for Form 525 high cost line counts.

¹³ See GCI Letter, *supra*, at p. 4.

Marlene H. Dortch, Secretary
January 24, 2012
Page 6

REDACTED FOR PUBLIC INSPECTION

Should any questions arise, please contact the undersigned.

Sincerely,

/s/ Steven M. Chernoff

Steven M. Chernoff
Jeffrey A. Mitchell

Counsel for PR Wireless, Inc.

cc: Patrick Halley, Esq.
Jamie Susskind, Esq.
Divya Shenoy, Esq.