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September 20, 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; WC Docket No. 03-109
CC Docket No. 96-45; WC Docket No. 12-23

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 September 18, 2012, Louise Finnegan and undersigned counsel, on behalf of Smith Bagley, Inc. ("SBI"), met with Trent Harkrader, Kim Scardino and Divya Shenoy at the FCC to discuss SBI's Petition for Limited Waiver, filed on June 26, 2012 in the above-referenced dockets.

The purpose of the meeting was to update the Commission on SBI's progress in recertifying its entire Lifeline customer base on or before December 31, 2012. As of September 9, SBI has recertified over 23,000 customers, with approximately 47,000 remaining to be recertified. SBI detailed the company's extensive outreach efforts, as well as the level of financial commitment it has made to recertify customers. The company has tripled its call center employee count, requiring the leasing of additional facilities, the purchase of computers and telephone network facilities.

SBI has conducted advertising and community outreach campaigns, including setting up a *888 short code for people to call to recertify. The company's efforts have so far cost over \$340,000 and have resulted in only 49 ineligible customers being denied Lifeline benefits. To date, the program savings will be approximately \$21,000 per year. Thus, the costs of recertification are far outstripping the program benefits. Extrapolating the results forward, will

result in an investment of over \$1 million, however SBI estimates that the additional outreach needed to complete the task properly and timely will bring the total expenditure to over \$2 million, as SBI will be forced to send employees out, door to door, to acquire the remaining recertifications, a step it has not taken thus far.

SBI reiterated that it is not asking to be relieved of the requirement to recertify its customer base, however it is asking for alternatives. Put simply, the recertification process is grinding the business to a halt, preventing the company from expending any resources on providing improved products and services to the region. Moreover, the company simply cannot go through this exercise annually – it is overwhelming to add nearly 50 employees to a small company that employs less than 200, for this single project, which is not turning up any meaningful program waste.

As a result, SBI has asked the Commission to permit it to recertify its customer base when they appear to renew their contracts. At that time, customers are expecting to devote 30 or more minutes to the renewal process, and SBI's agents can require recertification as a condition of renewal. That is, the inconvenience and hostility toward the process is much less at the point of renewal. SBI expressed a willingness to reduce its contract term to 36 months. It will continue recertification efforts whenever customers enter company stores, and to continue to publicize the need to recertify, and to keep its *888 short code open for use. These steps will result in its customer base being recertified on a rolling basis in a manner that helps achieve the Commission's goals.

SBI also noted that the prior rules required carriers to submit a statistically significant sample of their customer base each year, so that the agency could monitor overall program compliance. SBI's efforts to date, which have successfully recertified over 23,000 customers while revealing only 49 ineligibles, is far more than a statistically valid sample. The fact that only two-tenths of one percent (0.2%) have proven to be ineligible underscores that SBI's new customer intake process is thorough, and that the company is committed to the FCC's program to minimize program waste.

SBI briefly addressed comments in the proceeding to date. Only one comment, filed by HTI/Frontier, opposed granting the relief requested. HTI/Frontier, who are competitors of SBI, benefit if SBI's customers depart, and so their comments should be evaluated as such. SBI noted that according to USAC's records, Frontier, with a decades-long head start, has only approximately 2,500 Lifeline subscribers in all of the Navajo Nation (1,600 in Arizona and 900 in New Mexico). SBI's substantive responses to HTI/Frontier are set forth in the attached slide deck, and will be made part of SBI's forthcoming reply comments, to be filed September 24.

SBI also submitted a letter from four leaders of Hopi Villages, supporting SBI's request for relief. The Hopi Villages represent the people's interest and are not affiliated with HTI, the commercial service provider on the Hopi Reservation. A copy is enclosed.

Marlene H. Dortch, Secretary

September 20, 2012

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In response to staff's question, SBI can confirm that there are no other facilities-based wireless companies designated as ETCs on the Navajo Nation, competing with SBI for Lifeline customers. Accordingly, the possibility of there being an issue with duplicates among competing wireless companies in its existing tribal customer base is nil.

SBI also submitted a copy of a notice provided to a customer receiving SBI's "Freedomfone" product concerning possible disconnection for non-usage. A copy is enclosed. The customer responded to a disconnection notice, stating that she only uses her phone for 911 service and that she is 75% deaf. Although this example is not directly related to recertification, it is an obvious example of the type of customer SBI serves, people living in extraordinary circumstances. Many have no electricity, requiring them to leave their phones turned off until they make a call, preserving the battery until it can be recharged at another location.

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: Trent Harkrader, Esq.
Divya Shenoy, Esq.
Kim Scardino, Esq.

Enclosures

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Re-Certification Program

Progress Report – September 18, 2012

SBI Uses Multiple Recertification Channels

- ✓ In-store
 - 22 locations where we ask Lifeline customers visiting the store to recertify
- ✓ Auto Call Diverts
 - Customers attempting to make any outbound call (other than 911) are diverted in to our call center where we have recruited 40 additional agents to recertify them over the phone
- ✓ Outbound calling
 - Call center agents make proactive calls to Lifeline customers and attempt to recertify them over the phone
- ✓ Inbound Calls
 - Inviting customers to call into our Call Center to recertify – “Don’t Wait Dial 888”
- ✓ Callbacks
 - When we leave a message and the customer calls us back

Recertification Success Rates as of July 1, 2012

Total Lifeline Subscribers: 72,000. Total Recertified: 6,005

ReCert Activity	No. Attempts	No. Successes	% Success
In-store	6,167	3,104	50%
Auto Call Divert	13,454	2,180	16%
Outbound Calling	4,846	494	10%
Callbacks	255	227	89%
TOTAL	24,722	6,005	24%

Recertification Success Rates as of September 9, 2012

Total Lifeline Subscribers: 72,000. Total Recertified: 23,197

ReCert Activity	No. Attempts	No. Successes	% Success
In-store/kiosks	12,563	5,808	46%
Auto Call Divert	75,896	12,754	17%
*888 Inbound	2,956	2,571	87%
Outbound Calling	16,604	1,487	9%
Callbacks	648	577	89%
TOTAL	108,667	23,197	21%

Summary of Incremental Costs Incurred to Date

Incremental Costs Incurred to Date	
37 Agents, 3 Quality Control temps, 2 Supervisors & 1 Manager	\$229,272
Additional Call Center equipment, licenses and constructions costs	\$47,370
Navajo Nation Fair Participation (including "888" T-shirts, Stickers, Cards, Flyers, Banners, Semi-truck Banner, Labor, Prizes, Parade handouts, Hotels, Fuel Etc.	\$30,804
Radio Ads	\$33,241
TOTAL	\$340,687

Key Takeaways from Recertification Efforts to Date

- In just over 90 days, SBI has made over 100,000 contacts, successfully recertifying 23,197 customers.
- To date, this effort has cost over \$340,000.
- ***Only 49 ineligibles have been uncovered***, costing nearly \$7,000 per duplicate.
- 49 ineligibles equals a program savings of approximately \$21,000 per year.
- To recertify all 72,000 customers, SBI expects to uncover 150 ineligibles, saving the Lifeline program less than \$60,000 per year, at a cost of over \$1,000,000.

Key Takeaways (continued)

- The FCC's old rules required companies to submit a statistically significant sample of Lifeline customers, enabling FCC analysis of program compliance.
- To date, SBI's efforts have reached one-third of its subscribers, providing the Commission with data that is far more valuable than a statistically significant sample.
- Based on evidence collected to date, the Commission can easily conclude that SBI is complying with Lifeline guidelines and that further efforts will not be cost-effective.

SBI's Intake Procedures Minimize Duplicates

- SBI self-imposes a strict quality control process for all new Lifeline applications
- All applications are made in-person to an agent
- We do not accept applications via the Internet
- We carefully review every application and deny those that are ineligible

SBI Requires Further Relief

- SBI must not be made to invest \$1-2 million to uncover well less than \$100,000 in duplicates.
- Recertification is cost-effective when a customer renews their contract.
- Based on its experience to date, SBI requests the Commission to permit recertification upon contract renewal.

Response to Comments

- Only one opposition – HTI/Frontier, competitors of SBI.
- Frontier claims Lifeline customers are accustomed to renewing benefits regularly. Government agencies responsible for renewals have sufficient staff to accomplish this.
- “Refreshing subscriber information” is a far easier exercise than obtaining nine certifications.
- Based on SBI’s experience, third-party recertification companies cannot reliably obtain nine certifications from tribal customers for sixty cents.
- SBI is urged to do a “substantive” recertification. SBI’s procedures to date accurately and faithfully meet the Commission’s requirements for recertification – this is precisely what makes it impossible to complete the task by December 31.

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Appendix

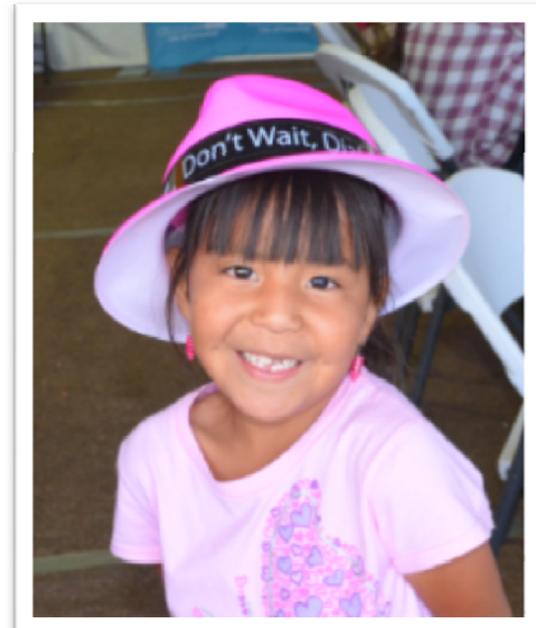
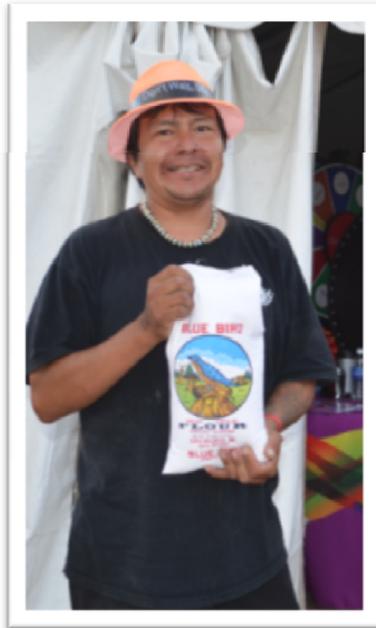
Recertification Awareness Campaign



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Promotional Items & Prizes



Info Cards on Necklaces



RECERTIFY &
WIN A SHEEP

Don't Wait
Dial
*888

Visit the CELLULARONE tent before 2:00pm!

CELLULARONE
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VISIT YOUR LOCAL STORE TODAY
OR CALL 1-800-730-2351
www.cellularoneonline.com

- Handed out during parade
- 15,000 necklaces with cards



Parade Float



- Semi trailer with recertify message
- 5 mile parade route with thousands of people along the route



Key Challenges

- Customers often do not want to recertify
 - Don't have time – avg call usually 15+ minutes (e.g. audio voice call!)
 - It's a hassle and inconvenience
 - Having signed a 40 month contract, we do they have to recertify
- Cannot be reached
 - Out of coverage area – C1 does not have 100% geo-coverage
 - Phone off to save credit – don't want to waste credit
 - Phone off due to no power – turn phone off when not using
 - Lack of addressing system on Tribal lands
- Trust
 - Why do we want the info?
 - What are we doing with it?
 - Who are we sharing it with?

Challenges – In Store

- 12,563 customers were asked to recertify when they entered a store. 5,808 actually did (46%)
- Process takes 15 - 35 minutes
- Issues & Complaints
 - Don't have time
 - Inconvenience & 'Hassle'
 - "I have already done this – why do I need to do it again?"
 - Distrust:
 - Giving social security or CIB
 - Why do they have to give exact directions on how to get to their houses?
 - Not understanding that it is ok to have a regular land line or wireless, not from the government.
 - Fear that we will access their personal info or financial records
 - Not happy about giving kids names

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Challenges – Auto Call Divert

- 75,896 customers were diverted to our call center & asked to recertify over the phone
 - 12,754 successful recertification's (17%)
 - 40,984 calls abandoned (54%)
 - 22,158 did not complete for the reasons below (29%)
- Process takes 15 - 35 mins.
- Issues & Complaints
 - Did not want to wait / did not have time
 - Didn't trust the process w/ SS# (current Scams)
 - Didn't want to give personal information when it has not been required before
 - Hang ups
 - Wants to go to store
 - 3rd party using phone

Challenges – *888 inbound calling

- 2,956 customers proactively called into our agents through *888 to recertify over the phone
 - 2,571 completed the recertification first attempts (87%)
 - 234 were checking to see if they needed to recertify
 - 151 were calling to recertify for someone else
- **Reasons for non-completion:**
 - Had recently renewed
 - Phone already disconnected for non-renewal
 - Wanted to recertify for 3-party family member

Challenges – Outbound Calling

- 16,604 customers were called by our agents & asked to recertify over the phone
 - 9,671 first attempts
 - 5,446 2nd or 3rd attempts
 - 1,487 successful recertification's (9%)
- Reasons for non-completion:

• Left VM message	7,210	48%
• Cust. cannot be reached	2,811	19%
• Line busy	2,026	13%
• Wants to go to a store	1,708	11%
• 'Call me back'	1,119	7%
• Hang ups	243	2%

Summary

- 21% contact rate, 9% full completion
- 61% busy / voicemail
- 19% cannot be reached
 - Phone off due to out of coverage area, no power, no credit
- 29% Don't want to recertify
 - Inconvenience & 'Hassle'
 - "I have already done this – why do I need to do it again?"
 - Did not want to wait / did not have time
 - Don't trust the process w/ SS# (current Scams)
 - Didn't want to give personal information when it has not been required before
 - 'Call me back'
 - Hang ups

SBI's PQA Record

USAC PQA, February 8th

- Findings noted 2 duplicate accounts, for an overpayment of \$69 on a payment of \$1.4M

USAC PQA, April 9th

- Closed satisfactorily with no further action required by SBI

USAC PQA, April 24th

- Notice received of PQA to be performed for HCL payment received December 2011.
- No findings, and no further actions required.

USAC Lifeline Audit, April 30th

- Two USAC auditors onsite inspection. List of minor follow up questions received and responded to through July 7th. Closed with no further issues.

Next Steps

- Heavy media campaign
 - No guarantee that it will work
 - Are we inviting fraud towards most vulnerable?
- Door-to-door calls
 - Extremely difficult to locate isolated subscribers
 - Security!
 - Massive cost

Strict Enforcement Will Disenfranchise Those Most in Need

- It is not possible to comply with the rules and successfully recertify every Lifeline customer
- Strict enforcement will terminate service for those individuals who are most vulnerable & use the service for exactly what it is designed ... a LIFELINE!

HOPI VILLAGES
HOPI INDIAN RESERVATION

September 12 2012

Federal Communications Commission
Washington D.C.

Re: Letter of Support of Smith Bagley, Inc.'s Petition for Limited Waiver

Dear Sirs and Madams;

It is our understanding the Federal Communication Commission (FCC) has issued a mandate requiring all telecommunication carriers that receive subsidized "Lifeline" funds to "recertify" all existing subscribers on or before December 31, 2012 and failure to do so will result in termination of Lifeline service. We are told the purpose of the recertification mandate is to eliminate fraud and misuse of government subsidized funds in the Lifeline program. While we support the FCC's policy, we question the arbitrary application of the mandate on the Hopi Nation and serious concerns that such an indiscriminate directive may result in harm to the very people Lifeline is intended to protect.

The Hopi reservation consists of 2,531,773 square miles with a population density of 3.1. We the Hopi people live in some of the most remote areas of the United States and miles from the nearest businesses that provide services. Hopi's do not use their cell phone like rest of the world. Most of the world consider a cell phone an appliance like a television or refrigerator that is used daily. We on the other hand, consider our cell phone as an instrument to use to contact family members, police and other emergency services. It is not unusual for our cell phone to remain off for days or weeks at a time. The cell phone is literally a Lifeline instrument and our only means to contact the outside world.

Because of our sparsely populated reservation, language challenges and the culturally sensitive lifestyles of our people, it will be a daunting task to reach every single Hopi Lifeline subscriber to recertify before December 31, 2012. Within two months of the date of this letter, many roads on our reservation will be impassable for days at a time due to inclement weather. When this occurs, the only contact with the outside world for many Hopi's will be through their cell phone.

We commend the FCC for its attempt to eliminate fraud and waste in a program that has resulted in the majority of the Hopi people having telephone service for the first time. We also applaud SBI for its efforts thus far in attempting to recertify Hopi Lifeline subscribers. However, we have grave concerns that the December 31, 2012 recertification deadline will result in exclusion of our Hopi people who rely on the Lifeline program the most. Our sole land line provider, Hopi Telecommunication Inc. can not provide its services to some areas of our reservation. We are also unable to resort to other

communication services on our reservation. CellularOne of Northeastern Arizona was the only wireless company that was willing to construct the infrastructure on our vast reservation lands, thus providing us services.

We, the undersigned Hopi Village Leaders humbly make this request on behalf of our Hopi People for your consideration for a waiver.

Lucas Namshi, Lt. Governor, Kykotsmovi Village

Donald Webb, Spokesman Village of Shungopavi

Debbie DeMeyer, Village Leader, Miskongmovi Village

James Tewayguna, Village Leader, Palachan Village
First Mesa Consolidated Villages
(Walpi, Shichomovi, Tewa)

CELLULARONE

August 31, 2012

Marjorie Gould

RE:

Dear Marjorie

You are currently receiving cellular service from us through the government subsidized FreedomFone (Lifeline) program. Our call records indicate that you have not used your telephone in the past 60 days to make a call or receive a call. Is there a specific reason you are not using your phone?

We would like to keep you as a customer. Regulations require us to suspend your Lifeline phone for non-usage unless you use your phone to make or receive a call or add a top-up to your phone which can be used for long distance, roaming or additional minutes. If you would you like to continue receiving your Lifeline service please contact our customer service department at 877-235-5170 or dial *888 from your CellularOne phone. When you call you will be asked to complete a recertification to update your account. This phone call will take approximately 10 minutes.

It will be important for you to make a call, receive a call or add money to your account during this next 60 day period or we will again have to consider your account inactive.

If we do not hear from you within 30 days from the date of this letter we will be forced to disconnect your phone.

Please do not lose your FreedomFone! Contact us today!

Sincerely,

Anita Garrison
Financial Assurance Supervisor

I am 75% or more DEAF - I use a phone for 911 calls only, but this phone is a Lifeline for me! Thank you

1500 S White Mountain Road * Show Low, Arizona 85901

Marjorie L. Gould