
**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Federal-State Joint Board on Universal Service) WC Docket No. 09-197
)
Global Connection Inc. of America)
)
Petition for Forbearance from 47 U.S.C. §)
214(e)(5) and 47 C.F.R. § 54.207)

**GLOBAL CONNECTION INC. OF AMERICA PETITION FOR FORBEARANCE
FROM 47 U.S.C. § 214(e)(5) AND 47 C.F.R. § 54.207**

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I. INTRODUCTION

Pursuant to Section 10 of the Communications Act of 1934, as amended (the “Act”),¹ Global Connection Inc. of America (“Global Connection” or the “Company”) petitions the Federal Communications Commission (“Commission”) to forbear from enforcing Section 214(e)(5) of the Act and Section 54.207 of the Commission's rules² in connection with the Company’s limited designation as an eligible telecommunications carrier (“ETC”) to participate in the federal Lifeline program on a wireless basis.³ More specifically, Global Connection seeks such forbearance with respect to (1) those areas where Global Connection has been previously approved by state commissions for Lifeline ETC status as identified in Exhibit 1, (2) those areas where Global Connection has Petitions for Lifeline ETC status pending as identified in Exhibit 1, and (3) any

¹ 47 U.S.C. § 160.

² 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207

³ Global Connection provides its wireless service under the d/b/a Stand Up Wireless.

remaining states where Global Connection has not yet filed for Lifeline ETC status, pursuant to 47 U.S.C. § 214(e)(2).

The Commission recently released an Order addressing similar petitions for forbearance filed by Cricket Communications (“Cricket”) and NTCH.⁴ In this Order, the Commission stated:

These petitions seek forbearance from the requirement that the service area of a competitive eligible telecommunications carrier (ETC) conform to the service area of any rural telephone company serving the same area, for the limited purpose of becoming designated as Lifeline-only ETCs.

We conclude that forbearance in these limited circumstances furthers the Act's and Commission's goals of promoting access to affordable service for low-income consumers by reducing barriers to carriers participating in the Lifeline program. Moreover, we find that application of the conformance requirements set forth in section 214(e)(5) of the Act and section 54.207(b) of the Commission's rules in this limited circumstance is not necessary to ensure that rates remain just and reasonable or to protect consumers.⁵

The forbearance Global Connection seeks is identical to that given in the Cricket Order. The Cricket Order, however, declined to extend the forbearance to all similarly situated parties. As a result, Global Connection is seeking forbearance.

Sections 214(e)(5) and 54.207 are intended to prevent recipients of high-cost universal service support from engaging in “cream-skimming”—*i.e.*, the practice of targeting only the lower-cost portions of a rural study area. The Commission has explained that, where a competitive ETC obtains support that is based on the cost of serving particularly high-cost portions of an incumbent carrier’s study area without actually serving those areas, it can distort

⁴ *In the Matter of Telecommunications Carriers Eligible for Universal Service Support; NTCH, Inc. Petition for Forbearance from 47 U.S. C. § 214(e)(5) and 47 C.F.R. § 54.207(b); Cricket Communications, Inc. Petition for Forbearance*, WC Docket No. 09-197, FCC 11-137, released Sept. 16, 2011 (“the Cricket Order”).

⁵ *Id.*, ¶¶ 1 and 2, footnote omitted.

competition and potentially undermine universal service.⁶ Thus, Sections 214(e)(5) and 54.207 effectively require an ETC to either: (i) serve the entirety of relevant rural study areas; or (ii) complete a lengthy and complex series of boundary-modification proceedings at the federal and state levels to demonstrate that the provision of service to a subset of the incumbent carrier's service territory would not result in cream-skimming or otherwise harm the public interest.

Critically, however, concerns regarding cream-skimming have no application in the context of Lifeline service, as the Commission has made clear. Carriers that receive support only for serving low-income consumers, as opposed to serving high-cost areas, have no incentive or ability to engage in cream-skimming. Accordingly, because Global Connection does not seek high-cost support, but rather seeks designation as an ETC only for the limited purpose of receiving low-income support (*i.e.*, Lifeline), enforcement of Sections 214(e)(5) and 54.207 would be unnecessary and would waste federal, state, and Company resources. In fact, the requested forbearance would strongly *promote* the universal service objectives embodied in the Act and reflected in Commission policy.

Global Connection is seeking, or has sought and has been authorized by state commissions, designation as a Lifeline ETC within Global Connection's service footprint (which is congruent with the wireless coverage of its underlying carriers, Sprint and Verizon). Many state commissions have regarded previous FCC orders, such as orders in which the FCC authorized the competitive ETC to provide Lifeline service in the ETC's "licensed service areas" without redefinition of the RLEC study area, as implicit authorization for competitive ETCs to provide Lifeline service in

⁶ See, e.g., *Virginia Cellular, LLC*, Memorandum Opinion and Order, 19 FCC Rcd 1563, at ¶ 32 (2003). See also *Federal-State Joint Board on Universal Service*, Recommended Decision, 12 FCC Rcd 87, at ¶ 172 (1996).

RLEC areas without application of the study area redefinition requirement. Numerous state commissions have authorized multiple Lifeline-only ETCs to operate in partial RLEC study areas. In all cases, Global Connection has been operating within its licensed area and in compliance with its designation orders. Global Connection was approved for designation as an ETC in Wisconsin, which granted designation in partial RLEC service areas conditioned on the Company obtaining forbearance from 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207 from this Commission.⁷ Accordingly, given the release of the Cricket Order, and pursuant to the Company's Wisconsin ETC Order, Global Connection is hereby filing the instant Petition for forbearance from application of the rural study area rules.

II. BACKGROUND

Global Connection provides prepaid wireless services on a common carrier basis, offering customers wireless voice, messaging, and data plans without a fixed-term contract or a credit check. Global Connection has received Compliance Plan approval⁸ and has been authorized as a Lifeline ETC on a wireless basis in fourteen (14) jurisdictions.

Under Section 214(e)(1) of the Act, an ETC must offer supported services and advertise the availability of and charges for such services "throughout the service area for which the designation is received." Section 214(e)(5) of the Act provides that in "the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the

⁷ See, i.e., *Application of Global Connection Inc. of America dba STAND UP WIRELESS for Designation as an Eligible Telecommunications Carrier*, Docket No. 2282-TI-100, Order (July 12, 2012) ("Wisconsin ETC Order").

⁸ See *Global Connection Inc. of America Compliance Plan*, WC Docket Nos. 09-197 and 11-42 (filed April 30, 2012) ("Compliance Plan"); *Public Notice*, DA 12-828 (rel. May 25, 2012) ("Compliance Plan Order").

Commission and the States ... establish a different definition of a service area for such company.⁹ Section 54.207 of the Commission's rules provides a series of steps to follow at the federal and state level to ensure that cream-skimming or other harm to the public interest does not occur from the provision of service to these smaller areas.¹⁰ These steps often take a great deal of time to complete and are an expense and time burden on both the carrier and the regulator.

Global Connection's coverage area in many states overlaps with a number of rural study areas, although the underlying Sprint and Verizon networks over which the Company's traffic is carried does not serve the entirety of many of those study areas. As a result, Sections 214(e)(5) and 54.207, if enforced, would preclude Global Connection from operating as a Lifeline ETC until the Commission and the states could redefine Global Connection's service areas to be narrower than the relevant rural study areas—even though the Commission has made clear that no “cream-skimming” analysis is necessary where an ETC applies only for low-income support.¹¹ Requiring the Commission and the states to go through the process of redefining RLECs' study areas would be a waste of resources and, in those areas which have already been designated by states and in which Global Connection has been offering Lifeline service and has a customer base, could disrupt the Lifeline service of the Company's customers if their service would need to be terminated while a redefinition of the study area is pending at the state level and the Commission.

⁹ 47 U.S.C. § 214(e)(5).

¹⁰ 47 C.F.R. § 54.207.

¹¹ See *Virgin Mobile USA, L.P.*, Order, 24 FCC Rcd 3381 (2009) (“*Virgin Mobile Forbearance Order*”), at ¶ 38 n. 101, where the Commission stated, “In addition, we need not perform a creamskimming analysis because Virgin Mobile is seeking Lifeline support only.”

III. THE FORBEARANCE STANDARD

Section 10(a) of the Act provides that the Commission shall forbear from applying any provision of the Act to a telecommunications carrier if the Commission determines that (i) enforcement of such provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with the carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory; (ii) enforcement of such provision is not necessary for the protection of consumers; and (iii) forbearance from applying such provision is consistent with the public interest.¹² Section 10(b) of the Act provides that the Commission, when evaluating whether forbearance would be consistent with the public interest, shall consider whether such forbearance would promote competitive market conditions or enhance competition.¹³

IV. DISCUSSION

Forbearance from enforcement of Sections 214(e)(5) and 54.207 in connection with Global Connection's Lifeline ETC authorizations is appropriate and, indeed, required because: (i) enforcement is not necessary to ensure that Global Connection's rates, terms and conditions are just, reasonable, and non-reasonably discriminatory; (ii) enforcement is not necessary to protect consumers; and (iii) forbearance is consistent with the public interest. It is also fully consistent with the Commission's actions in its Cricket/NCTH Order and necessary to ensure competitive neutrality in the Commission's interpretation of its rules.

Enforcement of Sections 214(e)(5) and 54.207 is not necessary to ensure that Global Connection's rates, terms and conditions are just, reasonable and non-discriminatory. These

¹² 47 U.S.C. § 160(a).

¹³ 47 U.S.C. § 160(b).

sections have no bearing on Global Connection's relationship with its customers. Instead, these sections deal with ETCs' service in RLEC areas and are designed to prevent cream-skimming by ETCs and to avoid complicating the RLEC calculations of high-cost support.¹⁴ Furthermore, forbearance would not prevent the Commission from enforcing Section 201 or Section 202 of the Act, which require all carriers to charge just, reasonable, and non-discriminatory rates.¹⁵

Customers are not harmed if forbearance is granted. Global Connection is or soon will be making Lifeline service available to customers in the RLEC areas in question. This gives these consumers access to lower rates and provides a means of communication many would not otherwise be able to afford. Thus, enforcement of Sections 214(e)(5) and 54.207 is not necessary to protect consumers.

Finally, the public interest is promoted through forbearance. Forbearance would allow Global Connection to continue to offer Lifeline services in RLEC areas where it has already entered on a good faith basis pursuant to the orders of state commissions. The public interest is not served by withdrawing Lifeline service from Global Connection from those customers who have already subscribed and established a successful relationship with Global Connection. These discounted services provide a valuable communications channel for these established customers. The prepaid nature of Global Connection's wireless service offers attractive Lifeline options that may not otherwise be available to low-income consumers.

Global Connection plays a crucial part in the marketplace by allowing many deserving citizens who cannot qualify for or otherwise afford the services provided by other communications carriers to enjoy the benefits of wireless communication. Global Connection

¹⁴ See *Virgin Mobile Forbearance Order* at ¶ 38 n.101.

¹⁵ 47 U.S.C. §§ 201, 202.

operates under the conditions of its FCC-approved Compliance Plan, and state ETC approvals – conditions which will not be changed by the grant of the forbearance requested herein. Forbearance from enforcement of Sections 214(e)(5) and 54.207 will simply allow Global Connection to continue to provide quality Lifeline services within RLEC areas where it already operates on a good faith basis pursuant to state commission Orders, or expedite entry into new areas to be approved by the Commission and state commissions.

V. ANTI-DRUG ABUSE CERTIFICATION

Global Connection is not subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998, 21 U.S.C. Section 862.

VI. CONCLUSION

For the reasons set forth above, Global Connection respectfully submits that forbearance from the enforcement of Sections 214(e)(5) of the Act and 54.207 of the Commission's rules against Global Connection is appropriate and required. Global Connection respectfully requests that the Commission grant this Petition expeditiously, so that low-income customers can benefit from the variety of high-quality calling plans provided by Global Connection without any unnecessary delay.

Respectfully submitted,

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APPENDIX A

DESCRIPTION OF RELIEF SOUGHT

Global Connection hereby provides the following information required by Section 1.54(a) and (e) of the Commission's rules, 47 C.F.R. §§ 1.54(a), (e):

- (1) Global Connection petitions the Commission to forbear from enforcing Section 214(e)(5) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(5), and Section 54.207 of the Commission's rules, 47 C.F.R. § 54.207.
- (2) Global Connection seeks forbearance on behalf of itself only.
- (3) Global Connection seeks forbearance with respect to its provision of Commercial Mobile Radio Service ("CMRS").
- (4) Global Connection seeks forbearance with respect to (i) those areas in Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia where Lifeline ETC status is pending with the Commission; and (ii) those areas in other states where Global Connection has sought, or will seek, designation as a Lifeline ETC from the relevant state commission pursuant to Section 214(e)(2) of the Act.

Global Connection has not, in a pending proceeding, requested or otherwise taken a position on the relief sought.

All supporting data upon which Global Connection intends to rely, for purposes of this petition, are included in the preceding narrative. Global Connection is not relying on any separate market analysis, and, as such, Global Connection is not attaching a separate appendix with supporting data.

EXHIBIT 1

EXHIBIT 1 - ETC Designations and RLEC Coverage

STATE ETC DESIGNATIONS	Docket Number	Effective Date	RLEC Coverage Included
Arkansas	11-015-U	04/19/11	Not requested
Arizona	T-04259A-11-0392	10/17/2012	Yes
Georgia	33600	09/18/12	Not requested
Kansas	12-GCAT-713-ETC	08/31/12	Not requested
Louisiana	S-31822	03/21/11	Not requested
Maryland	TE-10422	03/30/11	Not requested
Michigan	U-16577	06/26/12	Yes
Missouri	RA-2011-0299	11/05/11	Not requested
Pennsylvania	P-2012-2245213	09/13/12	Yes
Puerto Rico	JRT-2012-SU-0001	09/17/12	Not requested
South Carolina	2012-167-C	09/27/12	Yes
Texas	40739	11/05/12	Not requested
West Virginia	11-0381-C-PC	10/04/11	Not requested
Wisconsin	2282-TI-100	07/17/12	Yes, conditioned on study area forbearance

PENDING ETC PETITIONS	Docket Number
<u>FCC</u>	
Alabama	WC Docket 09-197
Connecticut	WC Docket 09-197
Delaware	WC Docket 09-197
District of Columbia	WC Docket 09-197
Florida	WC Docket 09-197
New Hampshire	WC Docket 09-197
New York	WC Docket 09-197
North Carolina	WC Docket 09-197
Tennessee	WC Docket 09-197
Virginia	WC Docket 09-197
Illinois	11-0579
Iowa	ETA-2012-0005
Massachusetts	D.T.C. 11-11
Minnesota	11-910
Nebraska	C-4528/NUSF-84
New Jersey	TO12070598
Ohio	12-2253-TP-UNC
Washington	UT-110992