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June 25, 2014

Via electronic mail

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

Re: Notice of Ex Parte Communications—CG Docket No. 02-278

Dear Ms. Dortch:

This is to notify you pursuant to Section 1.1206 of the Commission's rules that on June 24, 2104 Aryeh Fishman, Associate General Counsel, Regulatory Legal Affairs of the Edison Electric Institute ("EEI") and the undersigned met with the following individuals in the Commission's Consumer and Governmental Affairs Bureau—Mark Stone, Deputy Bureau Chief; Kurt Schroeder, Supervisor Attorney Advisor; John B. Adams, Attorney Advisor; Aron Garza Attorney Advisor, and Kristi Lemoine, Attorney Advisor—in connection with the above-referenced proceeding.

EEI's representatives began by noting that EEI is an association of United States investor-owned electric utilities and industry associates worldwide. As providers of Critical Infrastructure Industry ("CII") services, EEI's U.S. utility members serve 100 percent of all customers served by the shareholder-owned segment of the U.S. industry, about 70 percent of all electricity customers, and generate about 70 percent of the electricity delivered in the United States.

EEI's representatives pointed out that as a result of the deployment of smart grid technology, the need to educate customers about demand response and energy efficiency programs, and at the urging of state regulatory commissions and consumer groups, this nation's electric utilities have begun to make much more extensive use of prerecorded communications to contact their customers. These contacts range from texts and prerecorded calls regarding outage/curtailment notifications and service calls, to communications providing information regarding low income subsidies such as LIHEAP. Moreover, many of the utilities' customers now rely upon wireless telephones as their primary point of contact. Additionally, it was noted that these customer contacts were special in nature given the criticality of electric service, and the fact that many of the calls and texts involved public safety-related issues connected with ensuring service reliability and restoration. In sum, utilities are now making

use of prerecorded calls and texts to make more and better information available to their customers just as the Commission had recommended in the National Broadband Plan.¹

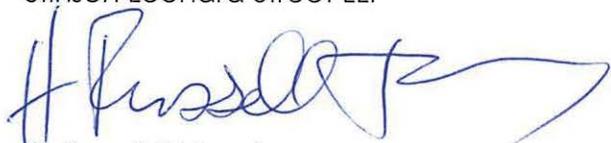
In light of the above, EEI's representatives indicated that it would be unfortunate if the Commission's TCPA rules were to be applied in a way so as to discourage or thwart these beneficial communications between utilities and their customers. They raised the concern that the mere threat of such an improper application of the Commission's TCPA rules to these utility/customer communications may have begun to have a chilling effect because given the nature of their service and the large number of their customers, electric utilities must place a premium on regulatory compliance and are loathe to act in the face of ambiguous regulatory standards. At least one of EEI's members is currently subject to a TCPA related legal action. In the long run, other EEI members might have to consider curtailing their customer communications effort in the face of continued uncertainty regarding the application of the Commission's rules. Not only would this unanticipated effect be unfortunate, but it would also run contrary to the public interest.

In concluding, EEI representatives indicated that the Commission needed to confirm or clarify that most if not all of the types of communications at issue fall within either the emergency or informational call exemptions to the Commission's TCPA rules.² The Commission was urged to act promptly.

Please feel free to contact the undersigned if you have any questions.

Sincerely,

Stinson Leonard Street LLP

A handwritten signature in blue ink, appearing to read "H. Russell Frisby, Jr.", with a long horizontal flourish extending to the right.

H. Russell Frisby, Jr

HF:SLS

cc: Mark Stone
Kurt Schroder

¹ See *National Broadband Plan*, Chapter 12.

² "Each of the circumstances described by the utilities is included within either the broad exemption for emergency calls, or the exemption for calls to which the called party has given prior express consent. Service outages and interruptions in the supply of water, gas or electricity could in many instances pose significant risks to public health and safety, and the use of prerecorded message calls could speed the dissemination of information regarding service interruptions or other potentially hazardous conditions to the public." *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 7 FCC Rcd 8752, 8778 (1992).

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John B. Adams
Aaron Garza
Kristi Lemoine