

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	WC Docket No. 09-197
)	
Petition for Forbearance of PlatinumTel)	
Communications, LLC)	

**COMMENTS OF
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
ON PETITION FOR FORBEARANCE**

On July 2, 2010, PlatinumTel Communications, LLC (“PlatinumTel”), a wireless reseller, filed a petition for forbearance in this docket pursuant to 47 U.S.C. § 160, seeking forbearance from the provision of 47 U.S.C. § 214(e)(1)(A) that requires eligible telecommunications carriers (“ETCs”) to provide service at least partly over their own facilities.¹ The Federal Communications Commission (“FCC” or “Commission”) put the petition out for public comment.² The National Association of State Utility Consumer Advocates (“NASUCA”)³ files these comments on the Petition.

¹ See PlatinumTel Petition (“Petition”) at 1.

² Public Notice DA 10-1294 (rel. July 13, 2010).

³ NASUCA is a voluntary, national association of consumer advocates in more than 40 states and the District of Columbia, organized in 1979. NASUCA’s members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions, as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General’s office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

As stated many times before,⁴ NASUCA fully supports increasing the options available to Lifeline-eligible consumers. But once again, it does not appear that the Commission can find that forbearance is in the public interest here without more specificity as to how PlatinumTel, like many of its predecessor applicants for forbearance from the facilities-based requirement, plans to apply the federal support it will receive upon designation as a Lifeline ETC.

It appears that PlatinumTel provides prepaid wireless service,⁵ but the plans are not described in the Petition. There are descriptions of PlatinumTel plans on its website, but no indication of how it will apply the Lifeline discount.⁶ Clearly, however, PlatinumTel focuses its prepaid service on low-income consumers.⁷ Although that is admirable, it is not enough to determine that granting forbearance to PlatinumTel is in the public interest.⁸

NASUCA is aware that in an Order released June 25, 2010 in CC Docket 96-45 and this docket, the Commission granted a similar forbearance petition filed by i-wireless, LLC.⁹ In that order, the Commission stated that it “disagree[d] with parties that argue that we should condition our forbearance on i-wireless complying with additional obligations, such as offering a particular usage package or complying with state-level 911 and E911 obligations.”¹⁰ The Commission cited NASUCA’s comments on the i-wireless petition, characterizing them as “arguing that forbearance is inappropriate unless i-wireless explains how it will apply the Lifeline discount to

⁴ See *In the Matter of Federal-State Board on Universal Service*, CC Docket No. 96-45 (“96-45”), NASUCA Comments on Petition by Conexions, LLC (filed September 9, 2009); *id.*, NASUCA Comments on Petition by Consumer Cellular, Inc. (filed August 20, 2009); *id.*, NASUCA combined comments on Petitions by i-Wireless, LLC (“i-Wireless”) and Head Start Telecom, Inc. (“Head Start”) (filed July 6, 2009).

⁵ Petition at 8.

⁶ See *id.* at 6; <http://www.platinumtel.com/>.

⁷ Petition at 3

⁸ 47 U.S.C. § 160(a)(3).

⁹ FCC 10-177 (rel. June 25, 2010) (“*i-wireless Order*”).

¹⁰ *Id.* at ¶ 18.

its plans....”¹¹ The Commission took the same position in an Order released July 30, 2010 granting forbearance to Head Start Telecom, Inc. (“Head Start”), Consumer Cellular, Inc. (“Consumer Cellular”) and Line Up, LLC (“Line Up”).¹²

NASUCA would note that NASUCA’s comment that “forbearance is inappropriate unless [the applicant for forbearance] explains how it will apply the Lifeline discount to its plans....”¹³ does not suggest that the applicant must “offer[]a particular usage package....”¹⁴ Rather, the comment was directed to the proposition that **the Commission must know** what kind of service the applicant plans to offer **before** determining that forbearance is in the public interest.

As stated in comments on the Line Up petition,

“NASUCA agrees with i-Wireless that ‘[p]repaid wireless services that are affordable and easy-to-use are attractive to lower-income customers ... providing them with access to emergency services, and a reliable means of communication while traveling and for contacting prospective employers.’ Unfortunately, based on its petition (and other available information), it is impossible to know whether i-Wireless will provide such a service and should receive federal low-income funding.” ... NASUCA stands by those comments, and fundamentally disagrees that the Commission can meet its public interest obligations under 47 U.S.C. § 160 by pushing the determination whether a service is in the public interest off onto state commissions.¹⁵

Likewise the Commission cannot defer its public interest duty as to forbearance to its later ruling on a carrier’s ETC application, where a state commission does not have jurisdiction to designate the applicant.¹⁶

¹¹ Id., n.38.

¹² FCC 10-134 (rel. July 30, 2010) (“*Head Start, et al. Order*”), ¶ 18 and .41.

¹³ *i-Wireless Order*, n.38.

¹⁴ Id., ¶ 18.

¹⁵ NASUCA Comments on Line Up Petition (June 29, 2010), n.2, quoting NASUCA’s Comments on the i-Wireless Petition at 5. It does not appear that the Commission considered this point in the *Head Start, et al. Order*.

¹⁶ E.g., *i-Wireless Order*, n.39.

Along the same lines, NASUCA's Comments on the Line Up Petition also stated that at its mid-year conference held in San Francisco, California earlier this month, NASUCA adopted a resolution that addressed many low-income ETC issues. Most of the resolution ... goes beyond the immediate purpose of this proceeding, but one portion is specifically relevant here: "RESOLVED, That the FCC should require any forbearance petition or petition for low-income ETC designation filed for a low-income ETC service to include a complete description of the service to be offered...."¹⁷

PlatinumTel, like other applicants for forbearance, should be required to explain how its Lifeline discounts will be applied before the Commission can address its petition. The petition should not be granted as filed.

Respectfully submitted,

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¹⁷ NASUCA Line Up Comments at 4 (citation omitted).