

December 10, 2010

Via Electronic Filing and Electronic Mail

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg , PA 17120
rchiavetta@state.pa.us

Re: Consolidated Communications Enterprise Services, Inc. v. Omnipoint
Communications Inc. d/b/a T-Mobile, *et al.*, Docket No. C-2010-2210014

Dear Secretary Chiavetta:

The undersigned represents the respondents in the referenced matter (“T-Mobile”). The purpose of this letter is to respond to the letter submitted on December 9, 2010, by counsel for the complainant, Consolidated Communications Enterprise Services, Inc. (“CCES”), requesting an extension of time in which to respond to the Preliminary Objections and Answer and New Matter filed and served by T-Mobile on December 6, 2010.¹

CCES omits the fact that **T-Mobile has offered to agree to an extension until December 29, 2010 for CCES’s filing of its responses to both documents**—23 days after receipt. T-Mobile respectfully submits that the extension requested by CCES until January 7, 2011—32 days after receipt – is excessive. Tripling the time allowed for a response to preliminary objections would thwart the stated purposes of the Commission’s preliminary objections procedures in general and the 10-day response period in particular:

The final regulation requires a response to a preliminary objection within 10 days. **The response time period**, the requirement to raise all preliminary objections at once, and a prohibition against preliminary objections in response to a preliminary objection **should discourage dilatory pleading. This also reduces administrative costs for all parties given that such costs are, in the end, reflected in assessments and rates.**²

¹ Counsel for CCES is listed on the Commission’s website as having agree to accept electronic service, and CCES concedes that T-Mobile did serve its filings on CCES electronically. It omits the fact that electronic copies of T-Mobile’s filings were e-mailed to CCES’s counsel before 3:00 p.m. on December 6, 2010.

² *In re Final Rulemaking for the Revision of Chapters 1, 3 and 5 of Title 52 of the Pa. Code Pertaining to Practice*

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T-Mobile appreciates the need to accommodate the holidays and personal circumstances cited by CCES. That is why it has offered to agree to more than double the time permitted for the filing of CCES's answer to T-Mobile's Preliminary Objections – to **December 29, 2010** -- and to extend the deadline for replying to the new matter alleged in its Answer and New Matter to the same date. However, contrary to CCES's assertion, the fact that T-Mobile's Preliminary Objections contain "extensive citation to numerous federal and state orders, rules, regulations and statutes" is not an extraordinary circumstance requiring an extension. The legal authority cited by T-Mobile relates to the jurisdiction of the Commission to adjudicate this matter and the legal sufficiency of CCES's claims for relief. CCES presumably filed its complaint only after concluding, after reasonable inquiry, that the relief requested was warranted by existing law or a good faith argument for the extension, modification or reversal of existing law. Any reasonable inquiry would have disclosed the principal authorities relied upon by T-Mobile, and such authority therefore should not be unfamiliar to CCES.

Thank you for your consideration of this response. Please do not hesitate to contact me should you have any questions.

Very truly yours,

Christopher M. Arfaa

Cc: Per attached certificate of service.

CERTIFICATE OF SERVICE

I, Christopher M. Arfaa, hereby certify that I have this day electronically filed the foregoing document with the Pennsylvania Public Utility Commission, in accordance with the requirements of 52 Pa. Code §§ 1.32 and 5.101. I further certify that I have caused a copy of the filed document to be served upon the persons listed below by the means indicated in accordance with the requirements of 52 Pa. Code § 1.54:

By Electronic Mail and First Class Mail:

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DATE OF SERVICE: December 10, 2010

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