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Sent: Friday, July 27, 2012 11:53 AM
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Subject: Docket 120150-TL
Attachments: 2012-07-27, 120150, letter to A. Teitzman.pdf

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The Docket No. is 120150-TL – **2013 State Annual certification of rural telecommunications carriers pursuant to 47 C.F.R. 54.314, High Cost Universal Service.**

This is being filed on behalf of T-Mobile South, LLC

Total Number of Pages is 3

Letter from T-Mobile to A. Teitzman, Esq., Office of General Counsel

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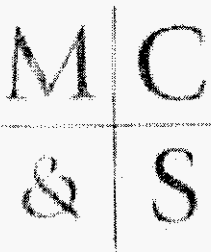
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July 27, 2012

BY ELECTRONIC FILING

Adam Teitzman, Esq.
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
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RE: Docket No. 120150-TL, Annual Certification, High Cost Support
T-Mobile South LLC

Dear Mr. Teitzman,

This is to follow up and confirm our telephone conversation regarding the status of T-Mobile South LLC ("T-Mobile") as an eligible telecommunications company ("ETC") designated to receive federal high cost Universal Service Fund ("USF") in the State of Florida and the absence of any jurisdiction in the Florida Public Service Commission ("PSC" or "Commission") with respect to T-Mobile's ETC operations. Accordingly, pursuant to federal law the Federal Communications Commission ("FCC") is the sole entity with jurisdiction and authority over T-Mobile as an ETC, including federal USF high cost support and the corresponding annual certification process.

As you know, wireless telecommunications services, including commercial mobile radio service ("CMRS") providers, are exempt from the jurisdiction of the Florida PSC. See sections 364.011(4) and 364.02(13), Florida Statutes. Pursuant to these statutory exemptions, in 2003 the Commission found that it did "not have jurisdiction over CMRS providers for purposes of determining eligibility for ETC status pursuant to 47 U.S.C. § 214(e)." Docket Nos. 030346-TP and 030413-TP, Order No. PSC-03-1063-DS-TP, *Declaratory Statement*, at 7 (September 3, 2003).

In 2005, the Florida Legislature enacted new section 364.011. This section enumerated certain exempt services, including "wireless telecommunications, including commercial mobile radio service providers," from oversight by the Commission, "except to the extent delineated in this chapter or specifically authorized by federal law."

In 2006, the Commission specifically found that the enactment of section 364.011 enabled the Commission to designate wireless telecommunications carriers as ETCs. Docket Nos. 060581-TP and 060582-TP, Order No. PSC-07-0288-PAA-TP, *Notice Of Proposed Agency Action Order Finding Authority To Consider Applications By CMRS Providers For ETC*

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Adam Teitzman, Esq.

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Designation (April 3, 2007). Pursuant to this finding, T-Mobile subsequently filed for and was designated by the PSC as an ETC and as eligible to receive federal high cost USF support in certain designated areas within the state of Florida. Docket No. 090507-TP, Order No. PSC-10-0475-PAA-TP (July 28, 2010) (consummated by Order No. PSC-10-0536-CO-TP, August 20, 2010); Docket No. 090510-TP, Order No. PSC-10-0478-PAA-TP (consummated by Order No. PSC-10-0535-CO-TP, August 20, 2010). Pursuant to applicable federal and state law, T-Mobile has subsequently participated in the annual certification to the FCC through the process of this Commission. Docket No. 100383-TP, Order No. PSC-10-0597-PAA-TP (September 29, 2010 (consummated by Order No. PSC-10-0636-CO-TP, October 25, 2010); Docket No. 110134-TL, Order No. PSC-11-0330-FOF-TL (August 3, 2011).

In 2011, the Florida Legislature amended section 364.011 to remove the “or specifically authorized by federal law” language. The effect of this change in language was to remove any and all authority of the Commission with respect to wireless ETC certification or ongoing regulation and certification. The only remaining statutory language provides a clear and explicit exemption from PSC jurisdiction for wireless/CMRS providers (there is no other statutory language creating any exceptions to the explicit exemption for wireless/CMRS providers). Pursuant to the 2011 amendment to section 364.011, the Commission has been notifying requesting wireless ETCs that the proper authority for getting designated as an ETC within the State of Florida is through the FCC and not the Florida PSC. Given the fact that the PSC lacks jurisdiction to designate a wireless/CMRS provider as an ETC in Florida, then there certainly is no residual or implicit authority that would allow the Commission to continue to regulate a wireless/CMRS provider T-Mobile as an ETC. Thus, there is no basis for T-Mobile to request that the PSC provide an annual federal USF high cost certification to the FCC.

Accordingly, T-Mobile has filed the necessary documentation with the FCC for its annual federal USF high cost certification for those areas in which T-Mobile has been designated to serve as an ETC in the State of Florida. As a courtesy, T-Mobile also provided a copy of its FCC certification filing in this docket so that the Commission would be apprised of T-Mobile’s continued compliance and commitment to serve as an ETC in Florida.

If you have any questions regarding this matter, please let me know.

Sincerely



Floyd R. Self
Counsel for T-Mobile South, LLC

FRS/amb

cc: Docket No. 120150-TL
Michele Thomas, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Electronic Mail and/or U. S. Mail this 27th day of July, 2012.

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