

October 10, 2007

VIA HAND DELIVERY

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

**Re: I/M/O The Board Investigation Regarding the Reclassification of
Competitive Local Exchange Carrier (CLEC) Services As
Competitive.
BPU Docket No. TX06120841**

Dear Secretary Izzo:

The New Jersey Division of the Rate Counsel (“Rate Counsel”) submits herewith its comments on whether CLEC Lifeline services should be a competitive service and whether the AT&T Communications of NJ, L.P.’s (“AT&T’s”) proposal for a cap during any transition would be appropriate.

On September 18, 2007, Rate Counsel received a letter from Anthony Centrella, Director of the Division of Telecommunications, on behalf of the New Jersey Board of Public Utilities (“Board”) asking for reply comments on the five (5) responses received.¹ Sunesys responded that it has no intention to provide residential service in New Jersey and it is unlikely that it ever would be a provider of Lifeline services. Level 3, for itself and affiliates, responded that they do not provide Lifeline services in New Jersey.² Qwest responded that it has no local exchange users in New Jersey and has no comments. AT&T responded that it remains willing to cap the retail price for Lifeline services in New Jersey for a period of time as part of a transition to where rates for Lifeline will no longer be regulated. Embarq did not detail its Lifeline program and instead it responded by stating:

^{1/} The following parties filed comments to the initial requests to CLECs on Lifeline programs offered: AT&T Communications of NJ, L.P.; Embarq Corp. (“Embarq”); Level 3 Communications Systems (“Level 3”); Sunesys LLC (“Sunesys”); and Qwest Communications (“Qwest”).

^{2/} Level 3 affiliates are: Broadwing Communications, LLC; ICG Telecom Group, Inc.; Looking Glass Network, Inc.; Progress Telecom, LLC; TelCove Operations, Inc.; TeleCove Investment, LLC; WilTel Local Network, LLC; and WilTel Communications, Inc.

Embarq is uncertain as to whether Embarq's Lifeline customers in New Jersey will be affected by how the Board transitions CLEC Lifeline services to competitive status. Little is known as to what specifically is entailed by CLECs transitioning Lifeline services to competitive status. For example, it has been proposed that a CLEC Lifeline rates be capped until the service can be transitioned to competitive status. Yet, Embarq is uncertain as to what rates are capped and what, if anything, differentiates capped CLEC Lifeline rates and ILEC Lifeline discount rates. Not enough is known about CLEC Lifeline services to determine what impact, if any, the competitive classification of CLEC Lifeline services might have as to Lifeline customers, as to CLECs, and as to ILECs with Lifeline service.

Rate Counsel submits that these comments clearly show that there is insufficient competition for Lifeline services so as to warrant the classification of Lifeline services as competitive. Embarq and AT&T are the only companies that responded that they provide such services and it is our understanding that AT&T does not have customers in the Embarq service area. In addition, there is no evidence that the criteria for declaring a service as competitive under *N.J.S.A. 48:2-21.19* are satisfied. AT&T is the only CLEC offering Lifeline and its Lifeline service is priced higher than the Lifeline service offered by Verizon New Jersey, Inc. ("Verizon"). It is also clear that AT&T is not soliciting new residential customers and is not attracting new customers, but pushing rate increases on its existing customer base.

AT&T's pending proposal consists of a cap for one year on existing rates with increases thereafter being limited to 75% of the increase Verizon makes to wholesale rates. Essentially, AT&T is proposing to raise its Lifeline rates in New Jersey after one year even though its current Lifeline offering is priced at \$9.20 to Lifeline customers (\$14.95 minus a \$5.75 reduction), well above Verizon's rate of \$00.00 to \$2.50 cents per month.

CLECs should be able to offer Lifeline at rates at or below Verizon. CLECs can purchase residential service at resale and receive a discount from Verizon. That discount coupled with the Lifeline support available under Federal Lifeline Program enables CLECs to price their service at or below Verizon. The most vulnerable citizens of New Jersey should not have to pay more for Lifeline service from CLECs than they would pay if obtained from Verizon. The public interest requires that telephone service remain affordable for these Lifeline customers. As a result, Rate Counsel submits that the Board should refuse to declare Lifeline a competitive service and suspend the AT&T's tariff for Lifeline and commence an investigation on whether AT&T's Lifeline rates are just and reasonable.

Thank you for your attention to this matter. Please do not hesitate to call the undersigned should you have any questions or require additional information.

Very truly yours,

RONALD K. CHEN
PUBLIC ADVOCATE

STEFANIE A. BRAND, ESQ.
DIRECTOR

By: _____
Christopher J. White,
Deputy Public Advocate
Division of Rate Counsel

cc: Service List (via regular mail)