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PUBLIC SERVICE
COMMISSION

March 12, 2008

Via Federal Express

Hon. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

**Re: *In the Matter of: Petition for An Investigation Into the Utility Assessments
Paid by Kentucky RSA #3 Cellular General Partnership,
Case No. 2007-00409***

Dear Ms. O'Donnell:

We are legal counsel to Kentucky RSA #3 Cellular General Partnership ("RSA #3"). In that capacity, we are writing to advise the Public Service Commission of the Commonwealth of Kentucky (the "Commission") that RSA #3 should like to withdraw its complaint in the above-referenced matter.

On September 18, 2007, RSA #3 filed an application for administrative case and complaint ("Complaint") seeking an investigation into the regulation of wireless pre-paid resellers by the Commission. RSA #3 stated that it is a utility within the meaning of the Kentucky Revised Statutes, and that it pays the annual Public Service Commission assessment on total revenues including revenues derived from pre-paid wireless services. RSA #3 stated further that other pre-paid wireless service providers in Kentucky do not pay the annual Public Service Commission assessment and therefore have a competitive advantage vis-à-vis RSA #3.

On December 26, 2007, the Commission denied RSA #3's request to investigate the regulation of pre-paid wireless service providers. By that same order, however, the Commission issued data requests to RSA #3 to investigate RSA #3's annual Public Service Commission assessment. Additionally, the Commission scheduled an informal conference for February 11, 2008.

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During the informal conference, it was discussed that the Commission may distinguish between facilities-based prepaid wireless providers and pre-paid wireless resellers, asserting jurisdiction over the former but not the latter. It was also discussed that it may be difficult to regulate resellers, particularly mobile virtual network operators ("MVNOs") such as TracFone and Virgin Mobile, because of the nature of the MVNO-customer relationship. (The MVNO-customer relationship may more closely mirror that of a retailer and purchaser than it does that of a utility and customer.) As was noted at the informal conference, an MVNO customer may purchase a handset and pre-paid card in Kentucky, but actually reside in Illinois. In that scenario, the revenue derived by the MVNO from the sale of the handset and pre-paid services may be, or is probably, outside the jurisdiction of the Commission. It was also noted that MVNOs do not typically establish a formal subscriber relationship with their customers, making it difficult for the Commission to ascertain that the MVNO's Kentucky intra-state revenues subject to the annual Public Service Commission assessment.

It was also discussed at the informal conference that there was interest in ascertaining whether RSA #3 provides pre-paid wireless services comparable to those of MVNOs because it is not desirable to place RSA #3, or any wireless service provider, at a competitive disadvantage vis-à-vis MVNOs.

RSA #3 appreciates the Commission's efforts to grapple with the jurisdictional issues raised by MVNOs' provision of pre-paid wireless services. Nonetheless, RSA #3 now believes that the time and expense of an investigation into the uniformity of regulation of pre-paid wireless providers is probably not warranted at this time.

Therefore, upon further review, Kentucky RSA #3 advises the Commission that, for the foregoing reasons, it should like to withdraw its complaint in Case No. 2007-00409. RSA #3 applauds and thanks the Commission for its attention to this matter.

Thank you, and if you have any questions with regard to this matter, please call us.

Sincerely,

DINSMORE & SHOHL LLP



Holly C. Wallace

HCW/rk

cc: John E. Selent, Esq.