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August 17, 2015

VIA ELECTRONIC MAIL TO [jcomeau@urc.in.gov](mailto:jcomeau@urc.in.gov)

Jeremy Comeau  
Assistant General Counsel  
Indiana Utility Regulatory Commission  
101 W. Washington St., Ste. 1500 East  
Indianapolis, IN 46204

RE: Indiana Statewide 911 Board's Comment on Possible Rule (RM 15-03)

Dear Mr. <sup>Jeremy</sup> Comeau:

The following comments are submitted on behalf of the Indiana Statewide 911 Board (911 Board).

According to the Commission's website, the stated scope of the above-referenced new rule encompasses both the sales practices as well as regulatory compliance standards for Lifeline Services provided by Lifeline-only eligible telecommunications carriers (ETCs). These comments are intended to address such ETCs' regulatory compliance.

The 911 Board depends on collection of the statutorily-mandated enhanced prepaid wireless charge (911 Fee) from providers of telecommunications service in Indiana. This essential fee revenue is used to operate the statewide 911 network as well as provide funds to local public safety answering points. In order to be declared eligible to receive federal universal service funds as an ETC, an applicant must demonstrate that its Lifeline service includes access to 911. Although the orders of this Commission granting carriers' ETC status have been conditioned on the carrier's payment of all applicable fees, with specific reference to the 911 Fee among others, certain Lifeline-only ETCs have determined that the 911 Fee does not or should not apply to them.

As other parties noted at the Commission's pre-rulemaking workshop conducted in this matter on July 15, 2015, the statutory requirement to pay 911 Fees for Lifeline service is the subject of pending litigation. Specifically, on that same date Virgin Mobile USA, L.P. filed a complaint in federal court seeking to block enforcement of Indiana's revised 911 fee statute which imposes fee payment obligations beginning August 1, 2015. In addition, the 911 Board has initiated litigation in state court against Virgin Mobile and

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three other carriers: TracFone, Budget PrePay and I-Wireless. The 911 Board's state court litigation seeks to collect unpaid 911 Fees from these four carriers owed under the previous 911 fee statutes.

The 911 Board appreciates the Commission's conditioning its ETC approval on the ETC's payment of applicable fees, including the 911 Fee. For purposes of this rulemaking, the 911 Board seeks to reinforce the requirement already contained in the Commission's orders granting ETC status to Lifeline-only providers. The proposed new rule addressing regulatory compliance matters should retain this essential condition for Lifeline-only ETCs. Failure to pay an applicable fee such as the 911 Fee is already grounds for denial of an ETC application and, once granted, such status should be revoked if an ETC refuses to pay an applicable fee such as the 911 Fee. The 911 Board proposes that until such time as a court declares the 911 Fee to be inapplicable, Lifeline-only ETCs should be required to pay the fee or seek an exemption from this Commission in a docketed public proceeding in order to retain their previously-granted ETC status.

Sincerely,

A handwritten signature in cursive script that reads "Clayton C. Miller". The signature is written in black ink and is positioned above the printed name.

Clayton C. Miller  
Counsel to the Indiana Statewide 911 Board