

Senate Committee on Energy and Telecommunications

Testimony of the

New York State Consumer Protection Board

**Regarding Overcoming Obstacles to
Wireless Phone Service**

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Good morning Senator Wright and members of the Senate Committee on Energy and Telecommunications. I am Douglas Elfner, the Director of Utility Intervention at the New York State Consumer Protection Board. Teresa Santiago, the Chairperson and Executive Director of the CPB, could not be here today, but asked me to provide the Committee with an overview of consumer complaints that the CPB receives on wireless telephone issues as well as our perspective on current consumer concerns with wireless telephone service. On behalf of Chairperson Santiago, thank you for this opportunity to present our views to the Committee.

It is no exaggeration to say that the use of wireless communications has skyrocketed. In the last five years, the minutes of airtime used by U.S. wireless consumers increased by a factor of 10. Currently, more than one-half of Americans own a wireless phone, and approximately 5% do not have a traditional wireline telephone and instead rely solely on wireless for voice communications. This huge increase in demand is being met in an industry that shows many signs of vigorous competition. There are five large national providers and numerous regional providers of wireless telephone service. Competition among these providers continues to reduce prices of wireless service and results in innovative new wireless services and capabilities for use by consumers.

Nevertheless, in several respects, the service provided to wireless customers does not always meet expectations. Consumers are concerned about many aspects of the quality of wireless service, in particular the inability to receive service in certain geographic areas, the premature termination of calls, the frequency of network busy signals which prevent additional calls from being completed, and the quality of the signal

connection. These issues frustrate consumers since they interfere with the ability to make and receive telephone calls. These issues are also of considerable concern to policy makers because they indicate that telephone calls with possible public health and safety implications are not being completed.

Consumers are concerned about other aspects of wireless service as well, in particular, billing and rate issues. These issues include rebates that are promised but not received, rates that are higher than promised, excessive termination fees, and fees for services that consumers understood would be free of charge.

The Consumer Protection Board receives and responds to approximately 20,000 consumer complaints each year. Those complaints concern the full range of consumer issues, including, among other things, automobile repair, credit collection activity and home repair contractors. About 2% of complaints received by the CPB concern wireless telephone issues. The vast majority of those complaints, approximately 90%, concern billing or rate issues. The remaining 10% concern the quality of wireless service, such as the inability to receive service in certain locations. Overall, the complaints received by the CPB reflect a slightly greater emphasis on billing and rate issues than the complaints received by the Federal Communications Commission. FCC data indicate that approximately 73% of consumer complaints on wireless telephone issues concern billing and rate issues.

The CPB receives four major types of consumer complaints regarding billing and rate issues for wireless telephone service. First, consumers often contend that the rates and fees on their first bill are higher than what they understood when they purchased the

service, or that the company has not provided them with the “free minutes” they expected.

Second, consumers often dispute whether they should be assessed a fee if service is terminated before the end of a specified contract term. A common concern is whether consumers should be assessed a termination fee, which can be up to \$200, when they claim that the Company did not abide by its obligations to provide quality service. For example, we have received approximately one dozen complaints in the last year from consumers who purchased wireless telephone service, found out later that they could not receive any signal whatsoever from their home, but were informed by the company that they had to pay an early termination fee. Fortunately, the CPB’s Consumer Assistance Unit was able to help by convincing the companies to waive termination fees in those instances.

Third, the CPB receives many complaints alleging that promised rebates, refunds, or bill adjustments were not received. Rebates are widely offered in the wireless industry, especially to new customers. Many complaints received by the CPB allege that rebates promised upon ordering service were not received, even six months later. Similarly, many consumer complaints allege that customer service representatives promised bill adjustments, which never appeared on the bill. In some cases, consumers remit only a portion of the bill, reflecting their understanding of the agreed-upon bill adjustment, but the wireless company does not make the bill adjustment and instead sends the bill to a collection agent, jeopardizing a consumer’s credit rating.

Fourth, we receive many complaints about charges for wireless calls made while roaming in another carrier’s territory. Some consumers contend that they were not

informed of these charges when they initiated service. Others contend that their wireless telephone did not display the words “roaming” or “out of area” for particular telephone calls, yet they were charged significantly higher roaming rates for those calls.

For the most part, the CPB has been extremely successful in resolving consumer complaints regarding billing and rate issues for wireless service. For approximately 85% of the complaints mentioned previously, we have helped secure an outcome that is acceptable to both the wireless service provider and the consumer.

Turning to complaints regarding the quality of wireless service, or the lack of service coverage within a geographic area served by the wireless provider, the most common complaints concern dead spots and dropped calls. Dead spots, or the inability to receive service within certain areas, is a well-known weakness of the current wireless system. While at times inconvenient to consumers, these dead spots dramatically reduce the value of wireless telephone service to some consumers. As I mentioned previously, we have received complaints from consumers who purchased new cellular telephone service, only to learn later that they are unable to make or receive any wireless calls from their home. Similarly, dropped calls, or the premature termination of calls, is also a considerable consumer problem. While at times an annoyance, some consumers have complained that dropped calls are a pervasive problem in their region. The CPB has also received a relatively small number of complaints regarding a frequent network busy signal, which is received when calls do not go through because of inadequate facilities.

In the CPB’s view, several of these issues appear to require attention; in particular, issues affecting consumers’ ability to send and receive calls. Consumers rely on wireless services to complete all telephone calls, including those involving

emergencies. In fact, a recent study by the American Association of Retired Persons found that among respondents that are 65 years of age or older, the most common reason for purchasing wireless telephone service is for security in the case of an emergency. Further, since more and more consumers rely solely on wireless telephone service for voice communications, reliability is increasingly important. I note that the Public Service Commission has several projects underway that should be very helpful in identifying wireless reliability-related issues requiring attention.

As you may be aware, several months ago, the wireless telephone industry announced a new voluntary program in order to address these service-related concerns. The nation's largest wireless carriers along with numerous regional companies, agreed to adhere to a 10-part code of behavior that is intended to provide consumers with information to help them make informed choices when selecting wireless service and to provide wireless services that meet consumers' needs. Some of the key items are: (1) carriers will disclose rates and terms of service information, such as calling areas, monthly fees, and the number of airtime minutes included in the plan, to new consumers when the rate plan is offered; (2) wireless carriers will make available maps depicting approximate voice service coverage for each of their rate plans; and (3) when a customer initiates service with a wireless carrier, the customer will be given an period of not less than 14 days to try the service. If the customer cancels the service within that period, the early termination fee will be waived if the customer complies with applicable return policies.

These guidelines are a step in the right direction. They appear to address in some fashion many of the issues that are of greatest concern to New Yorkers, as shown by complaints received by the CPB. Of particular benefit is the trial period of not less than 14 days. That should provide consumers the ability to determine whether the signal strength of the wireless service is adequate in those locations where they rely on wireless service most frequently. If not, the consumer can terminate the wireless service without incurring a termination fee. Similarly, full disclosure to new consumers of rates and terms of service should benefit consumers.

These industry guidelines have been in effect only since September 15 of this year. Although complaints concerning wireless service received by the CPB have remained steady since that time, it remains to be seen whether these guidelines will address consumers' concerns. In some areas, the CPB believes that these industry guidelines may not fully address known consumer issues. For example, although the industry has agreed to provide maps identifying the voice service coverage areas, in general, those maps do not identify local dead spots or regions where the wireless signal is weak. In addition, although the industry has agreed to inform new customers of the rates, terms and conditions of their wireless service plan, in some instances, companies do not provide this information to consumers in writing. As a result, consumers may still have a different understanding of their rate plan than the Company. Most importantly, these guidelines do not directly address concerns regarding the reliability and quality of the wireless service itself.

Overall, the CPB will continue to monitor industry practices, as well as compliance with the industry guidelines. Thank you for this opportunity to share the CPB's views on this important consumer issue. I am available to answer any questions you may have.