

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
U.S. Department of Health and Human Services)	WC Docket No. 07-271
Substance Abuse and Mental Health Services)	
Administration Petition for Permanent)	
Reassignment of Three Toll Free Suicide)	
Prevention Hotline Numbers)	
)	
Toll Free Service Access Codes)	CC Docket No. 95-155

ORDER AND REQUEST FOR COMMENT

Adopted: January 14, 2011

Released: January 14, 2011

Comments Due: February 14, 2011

Reply Comments Due: February 28, 2011

By the Chief, Wireline Competition Bureau:

1. Today, we initiate remand proceedings to respond to the recent decision of the U.S. Court of Appeals for the District of Columbia Circuit regarding three toll free numbers operated as suicide prevention hotlines: 1-800-SUICIDE (1-800-784-2433); 1-888-SUICIDE (1-888-784-2433); and 1-877-SUICIDA (1-877-784-2432).¹ In that decision, the Court reviewed the Commission's October 14, 2009 *Reassignment Order*,² in which, under unique circumstances involving public safety, the Commission permanently reassigned the three toll free numbers from the Kristin Brooks Hope Center (KBHC), a private, non-profit organization, to the Substance Abuse and Mental Health Services Administration (SAMHSA), a component of the United States Department of Health and Human Services (HHS). Finding that the Commission had inadequately explained its decision, the Court vacated the permanent reassignment of the numbers and remanded the *Reassignment Order* for further proceedings consistent with the Court's opinion. As discussed in more detail below, we ask KBHC and SAMHSA and other interested persons to update the record in this proceeding to assist the Commission in responding to the Court's remand. To prevent disruption of service, we also temporarily reassign the three toll free numbers to SAMHSA until June 1, 2011, while we review the parties' supplemental submissions.

¹ *Kristin Brooks Hope Center v. FCC*, 626 F.3d 586 (D.C. Cir. 2010).

² *U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration's Petition for the Permanent Reassignment of Three Toll-Free Suicide Prevention Numbers*, WC Docket No. 07-271, *Toll Free Service Access Codes*, CC Docket No. 95-155, Memorandum Opinion and Order and Order on Review, 24 FCC Rcd 13022 (2009) (*Reassignment Order*).

2. KBHC began operating toll free suicide prevention hotlines in 1998.³ On August 25, 2006, Michael D. Leavitt, Secretary of HHS, wrote to Commission Chairman Kevin Martin, expressing concern that the telephone number 1-800-SUICIDE might be disconnected due to KBHC's financial difficulties. Secretary Leavitt requested that 1-800-SUICIDE, along with other toll free hotline numbers, be reassigned to SAMHSA to avoid a "public health crisis."⁴ The Wireline Competition Bureau (Bureau), in responding to this emergency situation, granted SAMHSA's request in part by temporarily reassigning to SAMHSA three of the five requested toll free numbers, including the most utilized number, 1-800-SUICIDE, for a period of one year.⁵

3. Subsequently, SAMHSA filed another request for permanent reassignment to it of the three toll free numbers to ensure the continuous operation of these numbers as public health resources.⁶ The Bureau extended the temporary reassignment of the toll free suicide prevention hotlines several times while it updated the record and considered SAMHSA's request for permanent reassignment.⁷ On October 14, 2009, the Commission granted SAMHSA's request to permanently reassign the three suicide prevention toll free numbers from KBHC to SAMHSA.⁸ The Commission determined that permanent reassignment of those hotlines to SAMHSA would best serve the public interest in promoting the safety of life by ensuring the long-term stability of the suicide prevention hotlines.⁹ KBHC appealed the Commission's decision on December 14, 2009.

³ The 1-888-SUICIDE hotline was established in 1998, while the 1-800-SUICIDE and 1-800-SUICIDA hotlines were established in 1999 and 2003, respectively. *See* Comments of the Kristin Brooks Hope Center, U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration's Petition for the Permanent Reassignment of Three Toll-Free Suicide Prevention Numbers, WC Docket No. 07-271 at 2-3 (filed Dec. 7, 2007).

⁴ *See* Letter from Michael O. Leavitt, Secretary, United States Department of Health and Human Services, to Kevin J. Martin, Chairman, FCC, CC Docket No. 95-155 at 2 (filed Aug. 25, 2006) (requesting a temporary assignment). *See also* Letter from Eric B. Broderick, D.D.S., M.P.H, Acting Deputy Administrator and Assistant Surgeon General, United States Department of Health and Human Services, to Kevin J. Martin, Chairman, FCC, CC Docket No. 95-155 at 2 (filed Dec. 12, 2006) (requesting a permanent reassignment).

⁵ *See Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 22 FCC Rcd 651, para. 1 (Wireline Comp. Bur. 2007) (*800-SUICIDE Order*). On February 21, 2007, KBHC filed an application for review of the Bureau's Order, and SAMHSA timely filed its opposition. *See* KBHC Application for Review; *see also* Opposition to Application For Review of SAMHSA, *Toll Free Service Access Codes*, CC Docket No. 95-155 (filed Mar. 8, 2007). The Commission did not grant SAMHSA's request for reassignment of 1-800-827-7571 and 1-800-442-4673. *See Toll Free Access Codes*, CC Docket No. 95-155, Order, 22 FCC Rcd 651, 654-55, para. 10 (Wireline Comp. Bur. 2007).

(continued...)

⁶ *See* U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration Petition for Permanent Reassignment of Three Toll Free Suicide Prevention Hotline Numbers, WC Docket No. 07-271, at 4, 11 (filed Nov. 20, 2007).

⁷ *See Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 22 FCC Rcd 21573 (Wireline Comp. Bur. 2007) (extension until Apr. 21, 2008); *see also Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 23 FCC Rcd 6623 (Wireline Comp. Bur. 2008) (extension until July 17, 2008); *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 23 FCC Rcd 11015 (Wireline Comp. Bur. 2008) (extension until Nov. 14, 2008); *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 23 FCC 16659 (Wireline Comp. Bur. 2008) (extension until May 14, 2009); *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 24 FCC 5638 (Wireline Comp. Bur. 2009) (extension until Aug. 14, 2009); *see also Toll Free Service Access Codes*, CC Docket No. 95-155, Order, DA 09-1804, (rel. Aug. 13, 2009) (extension until October 14, 2009).

⁸ *Reassignment Order*, 24 FCC Rcd at 13022-23, paras. 1-2. For a complete procedural history of this proceeding, *see id.* at 13205-29, paras. 6-11.

⁹ *Id.* at 13030, para. 14.

4. On review the Court found that the Commission failed to adequately explain its decision.¹⁰ For instance, the Court found that the Commission relied on “unsupported assertions regarding the Center’s financial stability.”¹¹ Moreover, the Court concluded that the Commission did not explain why KBHC’s funding was insufficient to ensure stability, or identify what time frame for financial viability would be adequate for the Commission to conclude that the toll free suicide hotlines should be returned to KBHC.¹² KBHC has asserted that it has sufficient funding to maintain the suicide prevention hotlines in question for a period of two years. In order to respond to the Court’s remand, we seek comment on what showing of financial security is necessary to demonstrate a satisfactory level of stability and ongoing viability. Is a showing of financial viability for two years sufficient to show financial stability? If parties contend that more than a two-year funding period is necessary, they should explain why and suggest what they consider to be the appropriate period of time or resources necessary for continuous operation.

5. The Commission’s overriding reason for reassigning the toll free hotlines was to promote safety of life.¹³ We remain committed to that objective. We are also committed to addressing thoroughly the aspects of the Commission’s decision that the Court determined were not adequately explained. It has been more than a year since the parties updated the record in this proceeding.¹⁴ Therefore, we ask the parties to refresh the record and provide us with current and detailed information to assist the Commission in addressing the concerns raised by the Court.

6. The Commission has a unique interest in understanding the costs of operating the hotlines at issue. The Commission requests that KBHC and SAMHSA provide data that they believe will help the Commission assess the expenses of operating a suicide prevention network and project the future funding needs for operating the hotlines. Examples of the specific types of information that we believe would help the Commission resolve this situation and ensure the continuous operation of these numbers are listed below. We ask that the parties provide any financial projections for a period of five years, if possible, but at least for a period of two years. We also invite other persons with information regarding the operation of suicide prevention hotlines to comment on the precise expenses of operating such a network. The information we gather from all the parties will enable the Commission to respond to the Court’s remand.

- The total number of hotlines included in its network and, to the extent possible, the percentage of its costs allocated to each hotline number.

¹⁰ *Kristin Brooks Hope Center*, 626 F.3d at 590 (“Although the FCC faced a challenging line-drawing problem, its justifications for favoring SAMHSA over the Center were inadequately explained.”).

¹¹ *Id.* at 589.

¹² *See e.g., id.* (“Although the FCC’s attention to long-term stability was driven by the past instability of the hotlines, the Commission did not explain or even hint at what duration of time would be sufficient.”).

¹³ *See* 47 U.S.C. § 151 (“Federal Communications Commission created [f]or the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communications....”).

¹⁴ *See* Letter from Danny E. Adams, Counsel for KBHC, to Hon. Julius Genachowski, Chairman, FCC, CC Docket No. 95-155, WC Docket No. 07-271, (filed Oct. 13, 2009); Letter from Rina Hakimian, Senior Attorney for U.S. Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration, to Marlene H. Dortch, Secretary, FCC, CC Docket 95-155, WC Docket No. 07-271 (filed Oct. 8, 2009).

- The average length of a suicide-prevention call and the estimated cost per minute of that call.
- A detailed breakdown of the current monthly expenses to operate its (or its grantee's) suicide prevention network for 12 months, the total monthly cost of the network, including telecommunication/transmission costs, descriptions of the goods and services utilized, their monthly cost, and other expenses necessary to operate the suicide prevention hotlines.
- A projection of overall monthly expenses for the continued operation of its suicide prevention network.
- A projection as to whether the costs of operating its suicide prevention network will increase or decrease in the future, and, if so, why and by how much (for example, due to changes in call volume or future efficiencies in the network). Projected future costs for the next several years would be useful to our review.
- A description of the funding that will be used to operate its suicide prevention network in future years.
- If the commenter projects expenses associated with its network to increase, explain how it will fund any increased costs.
- We also invite comment on any other factual data that the commenter believes is relevant to the Commission's decision, especially data relating to the suicide prevention hotlines' ability to protect public health and safety.

To the extent that parties provide the information listed above, we request that such applicable information be provided in an Excel spreadsheet format if possible. Any data, comments or other responses must be filed by February 18, 2011.

7. To give the Commission an opportunity to review the parties' responses, we conclude that it is in the public interest to temporarily assign the toll free suicide hotlines to SAMHSA until June 1, 2011. This temporary assignment preserves the *status quo* and prevents disruption of the hotlines pending the outcome of this remand proceeding, thus furthering the critical goal of protecting safety of life during this limited period. We also establish a condensed comment period to enable us to respond to the Court's remand as expeditiously as possible.

8. Pursuant to sections 1.415 and 1.419 of the Commission's rules,¹⁵ parties may file comments in response to this Request for Comment no later than **February 14, 2011**, with the Secretary, FCC, 445 12th Street, SW, Washington, DC 20554. Reply comments may be filed with the Secretary, FCC, no later than **February 28, 2011**. All pleadings are to reference **WC Docket No. 07-271**.

9. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.¹⁶ Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of the proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal

¹⁵ 47 C.F.R. §§ 1.415, 1.419.

¹⁶ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

Service mailing address, and the applicable docket or rulemaking numbers. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, “get form.” A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

10. Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

11. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Parties are strongly encouraged to file comments electronically using the Commission’s ECFS.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

12. All filings must be addressed to the Commission’s Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Parties should also send a copy of their filings to Michelle Scalter and Heather Hendrickson, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Rooms 5-C266 and 5-C225, 445 12th Street, SW, Washington, DC 20554, or by e-mail to michelle.sclater@fcc.gov and heather.hendrickson@fcc.gov. Parties shall also serve one copy with the Commission’s copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

13. Documents in CC Docket No. 07-271 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. S.W., Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

14. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

15. This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the *ex parte* rules.¹⁷ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the

¹⁷ 47 C.F.R. § 1.1200 *et seq.*

subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.¹⁸ Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the rules.¹⁹

16. For further information, contact Michelle Sclater or Heather Hendrickson, Competition Policy Division, Wireline Competition Bureau, at michelle.sclater@fcc.gov or heather.hendrickson@fcc.gov.

17. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i) and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 251(e), sections 1.3 and 52.111 of the Commission's rules, 47 C.F.R. §§ 1.3 and 52.111, and pursuant to authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291,²⁰ that the toll-free numbers 1-800-784-2433 (1-800-SUICIDE), 1-877-784-2432 (1-877-SUICIDA), and 1-888-784-2433 (1-888-SUICIDE) are temporarily assigned to the Responsible Organization chosen by the Substance Abuse and Mental Health Services Administration, a component of the United States Department of Health and Human Services, until June 1, 2011.

18. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 251(e) and 408 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251(e), and 408, section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, and pursuant to authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that this action IS EFFECTIVE IMMEDIATELY UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief, Wireline Competition Bureau

¹⁸ See 47 C.F.R. § 1.1206(b)(2).

¹⁹ 47 C.F.R. § 1.1206(b).

²⁰ See 47 U.S.C. § 155(c).