

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund)	WC Docket No. 10-90

**COMMENTS IN SUPPORT OF UNITED STATES TELECOM
ASSOCIATION PETITION FOR WAIVER**

TracFone Wireless, Inc. (“TracFone”), by its attorneys, hereby comments in support of the Petition for Waiver of the United States Telecom Association (“US Telecom”) filed October 3, 2016 in the above-captioned docketed proceedings. By public notice issued October 6, 2016, the Commission has invited comment on the US Telecom Petition.¹ In support thereof, TracFone states as follows:

US Telecom has requested interim waivers of recently-modified Sections 54.400(j) and 54.409(a) of the Commission’s rules.² Those waivers, if granted, would enable Lifeline providers to continue to enroll low-income households in certain listed states in the federal Lifeline program based on state-specific program-based and income-based Lifeline eligibility criteria. The requested waivers would be for a period not to exceed 18 months or 60 days after a state notifies the Commission and all Eligible Telecommunications Carriers operating in the state that the state has aligned its eligibility criteria with the revised and narrowed federal criteria.

¹ Public Notice – Wireline Competition Bureau Seeks Comment on United States Telecom Association’s Petition for Waiver, WC Docket No. 11-42, DA 16-1144, released October 6, 2016.

² 47 C.F.R. §§ 54.400(j) and 54.409(a).

The waiver request is necessary as a result of the Commission's modification of the Lifeline eligibility criteria in its recent Lifeline Modernization Order.³ Under the revised Lifeline eligibility rules, effective December 2, 2016, the list of qualifying programs has been reduced, and the provision in the Commission's rules empowering states to establish their own additional Lifeline eligibility criteria under the federal program has been repealed. US Telecom notes correctly that those states which have adopted Lifeline eligibility criteria which differ from the soon-to-be effective federal criteria will need time to modify state laws and regulations to conform the state criteria to the federal criteria.⁴

TracFone is the nation's largest provider of Lifeline service with more than 4.6 enrolled low-income households in the approximately 40 states where TracFone's SafeLink Wireless[®] Lifeline service is available. Based on its experience providing Lifeline service in those states, including most of the states on the US Telecom list, TracFone shares US Telecom's concern that the inconsistencies between the federal program-based and income-based eligibility criteria and the states' eligibility criteria will be problematic. It will complicate the Lifeline enrollment process for providers; it will necessitate changes to state eligibility databases in those states where such databases are available; and it will unduly and unnecessarily complicate the administration of Lifeline in those states (such as, for example, California, Texas, and Vermont) which perform their own Lifeline eligibility verifications, either directly or through a state-engaged Lifeline administrator. Moreover, the inconsistencies between the federal eligibility criteria and various states' eligibility criteria will cause significant consumer confusion and dislocations, all of which will be avoided by grant of the requested waiver. Accordingly,

³ Lifeline and Link Up Reform and Modernization, et al. (Third Report and Order, Further Report and Order, and Order on Reconsideration), 31 FCC Rcd 3962 (2016.)

⁴ Attached to the US Telecom Petition is a list of 27 states affected by the changed federal criteria. By letter dated October 17, 2016, US Telecom added one state (New Jersey) to that list.

TracFone supports US Telecom's waiver petition and urges the Commission to waive the aforementioned rules on an interim basis.

In supporting US Telecom's waiver request, TracFone recognizes that some at the Commission may be reluctant to make any changes to the rule revisions promulgated in the Lifeline Modernization Order. Having expended significant effort on the contentious Lifeline matter earlier this year and with other major matters now pending before the Commission, some may not want to revisit any aspect of Lifeline reform at this time. However, TracFone respectfully urges the Commission not to avoid further refinements of the Lifeline changes where immediate action is necessary to avoid disruption of the program or to prevent consumer hardship. The interim waiver of the Lifeline eligibility criteria rules sought by US Telecom is such a situation. TracFone's pending request to stay or defer the effective date of the changes to the de-enrollment for non-usage rule is another such situation.⁵ As with the changes to the Lifeline eligibility rules, additional time is needed for the Commission to clarify how the de-enrollment rules should be implemented, to resolve internal inconsistencies and ambiguities in the Commission's rules,⁶ and to avoid the inevitable service disruptions and consumer harm which will occur prior to the Commission making that clarification and providing a basis in law and policy for those rule changes.

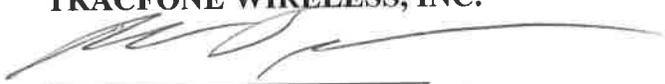
⁵ Motion for Stay or Deferral of the Effective Date of Revised 47 C.F.R. § 54.407(c)(2), filed by TracFone September 8, 2016, and subsequent ex parte letters.

⁶ See, e.g., Ex Parte Presentation letter dated October 5, 2016 from Mitchell F. Brecher, counsel to TracFone Wireless, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission. That letter described important ambiguities and inconsistencies, both within the language of the applicable rules, and in training materials produced by the Universal Service Administrative Company.

The Commission should not let a desire to avoid further consideration of the Lifeline rules preclude it from ordering interim pragmatic waivers, adjustments or deferrals necessary to avoid program disruption and consumer harm. Accordingly, TracFone respectfully urges the Commission to grant US Telecom's waiver request and to stay or defer the changes to the de-enrollment for non-usage rule.

Respectfully submitted,

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