

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

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

**EMERGENCY PETITION OF TELRITE CORPORATION, BOOMERANG WIRELESS,
LLC DBA ENTOUCH WIRELESS, AND GLOBAL CONNECTION INC. OF AMERICA
FOR EXTENSION OF DEADLINE TO COMPLETE LIFELINE RECERTIFICATIONS IN
PUERTO RICO**

Pursuant to section 1.3 of the Federal Communications Commission's (Commission's) rules,¹ Telrite Corporation (Telrite), Boomerang Wireless, LLC d/b/a enTouch Wireless (Boomerang), and Global Connection Inc. of America (Global Connection) (collectively, the Petitioners) respectfully submit this Emergency Petition to extend the deadline to complete Lifeline recertifications for certain subscribers in Puerto Rico.

Following the historic devastation caused by Hurricanes Irma and Maria in Puerto Rico, the Wireline Competition Bureau (Bureau) issued a series of orders granting temporary relief from the Lifeline program rules related to non-usage and recertification.² In its most recent order, the Bureau

¹ See 47 C.F.R. § 1.3.

² See *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42, et al., Order, DA 17-860 (WCB rel. Sept. 7, 2017) (Hurricane Irma Waiver Order); *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42, et al., Order, DA 17-984, ¶¶ 10-16 (WCB rel. Oct. 6, 2017) (Hurricane Maria Waiver Order); *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42, et al., Order, DA 17-1066 (WCB Rel. Oct. 31, 2017) (PR/USVI First Recertification Waiver Extension Order); *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42, et al., Order, DA 18-102 (WCB rel. Feb. 2, 2018) (PR/USVI Second Recertification Waiver Extension Order); *Lifeline and Link Up Reform and Modernization, et al.*,

instructed “ETCs must begin the 60-day notice period for recertification by April 1, 2018 for any subscribers whose anniversary dates fall from September 7, 2017 through May 31, 2018.”³

Consistent with this directive, the Petitioners have worked diligently since April 1, 2018 to recertify subscribers in Puerto Rico that were subject to the waiver period by May 30, 2018. However, as explained herein, the Petitioners’ experience over the last month has made clear that hurricane recovery efforts remain ongoing and that life on the island is far from “normal,” which has inhibited the ability of consumers to complete the recertification process. These difficulties are compounded by the fact that the recertification process in Puerto Rico is more burdensome than in most states because subscribers who cannot be recertified through an eligibility database must present proof of eligibility during recertification. Accordingly, the Petitioners respectfully request that the Bureau temporarily waive section 54.405(e)(4) of the Commission’s rules and provide these subscribers an additional 30 days to complete recertification.⁴ Grant of this Petition is essential to protect low-income consumers in Puerto Rico from having their vital Lifeline service disconnected at a time when it is needed most. Indeed, de-enrollment of eligible subscribers from the Lifeline program during this recovery period based on their inability to comply with technical program rules in the short-term would subject already vulnerable consumers to unnecessary endangerment resulting from the termination of essential communications services.

WC Docket No. 11-42, et al., Order, DA 18-208 (WCB rel. Mar. 1, 2018) (PR/USVI Third Recertification Waiver Extension Order).

³ PR/USVI Third Recertification Waiver Extension Order ¶ 6.

⁴ Consistent with the relief previously granted in Puerto Rico, the Petitioners only seek an extension of the recertification deadline for subscribers whose continued eligibility cannot be verified using an eligibility database.

I. RECERTIFICATION DIFFICULTIES IN PUERTO RICO

As the Commission is aware, hurricane recovery efforts remain ongoing in Puerto Rico, and while progress is made every day, it is, as Puerto Rico's governor Ricardo Rosselló recently observed, "a long-term process."⁵ Indeed, the island continues to be plagued by widespread power outages – including an island-wide blackout on April 18⁶ – and "more than 40,000 residents have been without regular electricity in the last seven months."⁷ Damage to homes and other infrastructure such as roads also continues to fracture daily life throughout the island, including mail delivery.⁸ These ongoing disruptions to basic services have interfered with the Petitioners' efforts to assist their Lifeline subscribers in Puerto Rico with the recertification process. For example, Telrite and Boomerang allow Lifeline subscribers in Puerto Rico to recertify their eligibility in-person, online, or by mail. Boomerang also allows subscribers to recertify via facsimile or Interactive Voice Response (IVR). Global Connection offers online, facsimile, IVR or mail recertification. The ongoing hurricane recovery effort has compromised virtually all of these

⁵ See "Puerto Rico governor on the 'highly frustrating' hurricane recovery process," CBS News (Apr. 25, 2018), available at <https://www.cbsnews.com/news/puerto-rico-governor-ricardo-rossello-hurricane-maria-recovery/>. See also FCC Chairman Ajit Pai, "In the Aftermath of Hurricanes Irma and Maria, Resilience and Challenges in Puerto Rico and the U.S. Virgin Islands," FCC Blog (Mar. 19, 2018) (summarizing Chairman Pai's firsthand experience touring the damage throughout Puerto Rico six months after Hurricane Maria).

⁶ See James Wagner and Frances Robles, "Puerto Rico Is Once Again Hit by an Islandwide Blackout," New York Times (Apr. 18, 2018), available at <https://www.nytimes.com/2018/04/18/us/puerto-rico-power-outage.html>.

⁷ See Ryan Connelly Holmes, "Puerto Rico's recovery, 7 months after Hurricane Maria," PBS News Hour (Apr. 19, 2018), available at <https://www.pbs.org/newshour/nation/puerto-ricos-recovery-7-months-after-hurricane-maria>.

⁸ The Petitioners understand that while post offices generally are operational, mail delivery remains a challenge because many roads and homes were destroyed during the storms, and even among the homes that remain standing, many are significantly damaged such that the owners or occupants have been forced to seek shelter elsewhere, and may not be receiving mail at their temporary address.

recertification methods. Recertification online or via fax is essentially impossible if a subscriber does not have reliable access to electricity or the Internet, and disruptions to these services hamper in-person recertifications as well because ETC representatives may be unable to upload the subscriber's recertification documentation.⁹ Recertification by mail is also difficult or impossible if a subscriber does not receive his or her notice to recertify because of mail delivery issues.

Recertification efforts in Puerto Rico are further complicated by the fact that the recertification process in Puerto Rico is particularly onerous for Lifeline subscribers who cannot be recertified through an eligibility database, such as the "Programa de Asistencia Nutricional" (PAN) database. Unlike most states and territories, Puerto Rico requires these subscribers to provide proof of eligibility during recertification.¹⁰ The property damage that resulted from Hurricanes Irma and Maria is well-documented,¹¹ and Lifeline subscribers who lost their homes and/or possessions as a

⁹ ETCs also may have difficulty communicating to their customers when and where they can recertify in-person. Boomerang, for example, recently set up a temporary in-person recertification site in Penuelas, Puerto Rico and attempted to notify 2,800 of its customers nearby that they could visit the site to recertify their Lifeline eligibility. As of the filing of this Petition, however, not a single customer has been recertified at this location. Boomerang has been unable to ascertain the exact cause of the problem.

¹⁰ See *Enmiendas Provisionales al Reglamento sobre Servicio Universal*, Regulation 8093, Rule 14.7(e). For this reason, recertification via IVR tends to be ineffective in Puerto Rico because even if a subscriber completes an IVR, the subscriber will separately have to submit proof of his or her continued eligibility for Lifeline.

¹¹ See "Puerto Rico to get HUD funding to rebuild hurricane-damaged housing, infrastructure," NBC News (Apr. 11, 2018), available at <https://www.nbcnews.com/storyline/puerto-rico-crisis/hud-announces-puerto-rico-funding-rebuild-hurricane-damaged-housing-infrastructure-n864961> (explaining that "Puerto Rico will receive \$18.5 billion from the U.S. Department of Housing and Urban Development to help rebuild its battered housing stock and infrastructure"); see also Adrian Florido, "Unable To Prove They Own Their Homes, Puerto Ricans Denied FEMA Help," NPR (Mar. 20, 2018), available at <https://www.npr.org/2018/03/20/595240841/unable-to-prove-they-own-their-homes-puerto-ricans-denied-fema-help> ("Of the nearly 1.2 million applications for help that FEMA has received in Puerto Rico, roughly 60 percent have been found ineligible for what the agency calls Individual and Household grants ...[I]n an email to NPR, FEMA confirmed that a main reason it has denied these grants in Puerto Rico has been applicants' inability to verify that they own the homes for which they are claiming damage.").

result of the hurricanes may still be working towards replacing key documents, including documents to demonstrate their continued eligibility for the Lifeline program. Indeed, the Puerto Rican Department of Family Affairs held numerous events in communities across the island recently to educate and enroll consumers in the PAN program as part of the commonwealth's recovery plan. For some subscribers, events like these may be their first opportunity to replace their Lifeline eligibility documentation. Prior to filing this Petition, Telrite submitted a request to the Puerto Rico Telecommunications Regulatory Board to temporarily waive the requirement to provide proof of eligibility at recertification. However, that request was denied.¹²

A third issue unique to the current recertification effort in Puerto Rico is the sheer volume of subscribers who need to complete recertification by May 30, 2018. Telrite, for example, has approximately 50,000 subscribers who need to be recertified without an eligibility database. It has been holding approximately 30-40 recertification events daily, and expects to increase that number in the coming weeks, in order to support these recertifications. Despite expending these considerable resources, thus far less than fifteen percent of these subscribers have successfully completed recertification. Global Connection similarly has experienced a low response rate, with only ten percent of its subscribers recertified thus far.

Petitioners' experience in the recertification process thus far makes clear that the impacts of the storms continue to make everyday life in Puerto Rico difficult, and it is the Petitioners' sense based on media coverage and anecdotal evidence based on contacts with people on the ground, that the situation is not likely to materially improve by May 30. Accordingly, the Petitioners respectfully submit that the situation requires additional relief.

¹² See *To All Companies Designated as Eligible Telecommunications Companies*, Case Num. JRT-2001-SU-0003, Resolution and Order (issued Apr. 27, 2018).

II. REQUEST FOR EXTENSION OF THE RECERTIFICATION DEADLINE

The Petitioners support the Commission's efforts to curb waste, fraud and abuse in the Lifeline program and expend significant time and resources to comply with the Lifeline program rules, including the recertification requirements. However, neither the Commission's rules nor its orders related to the Lifeline program contemplate potential difficulties that consumers may have in completing the annual recertification process following a natural disaster such as Hurricanes Irma and Maria. As explained above, these difficulties are compounded by the requirement in Puerto Rico that subscribers who cannot be recertified through an eligibility database must present proof of eligibility during recertification. Given the magnitude of potential harm to low-income consumers that could result if the recertification rules are routinely enforced against Lifeline subscribers in Puerto Rico in the midst of this lengthy and arduous recovery period, the Petitioners respectfully request that the Bureau temporarily waive section 54.405(e)(4) of the Commission's rules and provide these subscribers an additional 30 days to complete recertification.¹³

Without the requested extension, significant numbers of Lifeline subscribers could, in a matter of weeks, be de-enrolled from Lifeline at a time when they need essential communications service the most. As noted above, tens of thousands of residents in Puerto Rico remain without reliable access power more than months after the storms. Damage to homes and other infrastructure such as roads also continues to disrupt daily life throughout the island, including mail delivery, and consumers are still working towards replacing homes and possessions, including important documents, that were lost as a result of the disaster.

The Petitioners respectfully submit that under these conditions, it is both unrealistic and counter to the public interest to strictly enforce the Lifeline recertification rules in Puerto Rico in

¹³ The Petitioners only seek an extension of the recertification deadline for subscribers whose continued eligibility cannot be verified using an eligibility database.

the short term. Indeed, during this recovery process, thousands of subscribers for which the Petitioners are requesting temporary relief have continued to use their Lifeline-supported service, but have not completed recertification, likely in part due to continued lack of reliable power and/or mail delivery service, as well as the unique requirement in Puerto Rico to provide proof of eligibility during recertification. The Petitioners therefore respectfully submit that, in light of this ongoing and uncertain recovery period, an additional 30 days for these subscribers to complete recertification is necessary.

III. GOOD CAUSE EXISTS TO EXTEND THE RECERTIFICATION DEADLINE

The Commission may waive any of its rules for good cause shown,¹⁴ and on delegated authority, the Bureau may waive the Commission's rules based on the same standard.¹⁵ Discretion to waive a rule may be exercised where the "particular facts make strict compliance inconsistent with the public interest."¹⁶ Hardship, equity or more effective implementation of overall policy may also be considered.¹⁷ In short, grant of a waiver request is justified when the public interest would be served by such action.

The Commission consistently has acknowledged the need for low-income consumers to have access to critical communications services during and after a catastrophic natural disaster.¹⁸ In

¹⁴ See 47 C.F.R. § 1.3.

¹⁵ See 47 C.F.R. § 0.91(b); *see also* 47 C.F.R. § 0.291(a).

¹⁶ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (Northeast Cellular).

¹⁷ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹⁸ In 2005, the Commission established a temporary Lifeline program to provide relief to victims of Hurricane Katrina who were "without telecommunications service, unable to contact loved ones, make new living arrangements, or find post-hurricane employment." See *Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Link-Up*, CC Docket No. 96-45, WC Docket No. 02-60, CC Docket No. 02-6, WC Docket No. 03-109, Order, FCC 05-178 (2005). The Commission's actions

issuing the various waiver orders between September 2017 and March 2018, the Bureau acknowledged that good cause existed for temporarily granting relief from the Lifeline recertification requirements in Puerto Rico, finding that “strict compliance” with the Lifeline program rules would be either “impracticable” or “inconsistent with the public interest” in the wake of these historic natural disasters.¹⁹ Sadly, the damage sustained by Hurricanes Irma and Maria has resulted in lengthy recovery processes that remain ongoing. As explained above, these disruptions to daily life, coupled with the onerous requirement in Puerto Rico to provide proof of eligibility during recertification and the volume of subscribers that need to complete recertification, have detrimentally affected the ability of Lifeline subscribers in Puerto Rico to complete the recertification process. The Petitioners therefore respectfully submit ample good cause exists to grant Lifeline subscribers in Puerto Rico an additional 30 days to complete recertification. Granting this Petition would serve the public interest because it would avoid the significant harm and endangerment to consumers that would be caused by de-enrolling Lifeline subscribers in Puerto Rico simply because they cannot strictly adhere to the Commission’s recertification requirements during and in the recovery period following an unprecedented natural disaster.


following Hurricane Katrina reflect the general truth that “poor people are disproportionately impacted by natural disasters.” *See Addressing the Risk of Waste, Fraud and Abuse in the FCC’s Lifeline Program: Hearing Before the S. Committee on Commerce, Science, and Transportation*, 115th Cong. (Sept. 6, 2017) (Statement of Jessica J. Gonzalez, Deputy Director & Senior Counsel, Free Press and Free Press Action Fund) (internal cites omitted). And in the aftermath of Hurricane Maria, Chairman Pai has made clear that despite the “catastrophic impact” of the storm, “the FCC stands ready to do whatever [it] can to help.” *See* FCC Press Release, “Chairman Pai Statement on Hurricane Maria” (Sept. 21, 2017); *see also* FCC Chairman Ajit Pai, “In the Aftermath of Hurricanes Irma and Maria, Resilience and Challenges in Puerto Rico and the U.S. Virgin Islands,” FCC Blog (Mar. 19, 2018) (commenting that after the most recent visit to Puerto Rico and the U.S. Virgin Islands, “[w]e’ll take back the lessons we learned to the FCC and do all we can to help people get back on their feet”).

¹⁹ *See* Hurricane Irma Waiver Order ¶ 1; Hurricane Maria Waiver Order ¶ 2; PR/USVI First Recertification Waiver Extension Order ¶ 3; PR/USVI Second Recertification Waiver Extension Order ¶ 7.

IV. CONCLUSION

For the foregoing reasons, the Bureau should grant this Petition and temporarily waive section 54.405(e)(4) of the Commission's rules by extending the deadline to complete Lifeline recertifications in Puerto Rico by an additional 30 days. As previously noted, the Petitioners only seek an extension for subscribers whose continued eligibility cannot be verified using an eligibility database.

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