

September 20, 2017

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 11-42 Lifeline and Link Up Reform and Modernization

Dear Ms. Dortch:

On September 19, 2017, Mark Rubin, Senior Executive, Government Relations, TracFone Wireless, Inc. (“TracFone”), Richard B. Salzman, Executive Vice President and General Counsel, TracFone, and Leighton Lang, Senior Vice President, State Regulatory Affairs, TracFone (both participating by telephone), Michael Senkowski of DLA Piper, LLP, and undersigned counsel for TracFone met with Jay Schwarz, Wireline Advisor to Chairman Ajit Pai. During the meeting, we discussed certain concerns regarding forthcoming changes to the minimum service standards established in the Commission’s 2016 Lifeline Modernization Order (Lifeline and Link Up Reform and Modernization, 31 FCC Rcd 3962 (2016)).

TracFone proposed that the Commission clarify that Lifeline providers may meet the Lifeline minimum service standards scheduled to become effective December 1, 2017 through a “units” plan. Under TracFone’s proposal, consumers enrolled in wireless Lifeline services such as TracFone’s SafeLink Wireless® service would receive 1,000 units per month which could be used for voice telephony service or for mobile broadband Internet access service, depending on each customer’s needs and preferences in any particular month. A unit would be either one minute of wireless voice service or 1 MB of mobile broadband service. Under this plan, TracFone would provide consumers with up to 1,000 minutes of mobile voice service (which would exceed the 750 minimum standard codified at 47 C.F.R. § 54.408(b)(3)(ii)) or up to 1 GB of mobile broadband data (which would comply with the minimum standard codified at 47 C.F.R. § 54.408(b)(2)(B)), or with a combination of wireless voice service and mobile broadband service which could be used by each enrolled Lifeline consumer based upon the consumer’s current needs and preferences. This would afford Lifeline customers flexibility to utilize their wireless Lifeline service as they choose based upon their own needs rather than as prescribed by Commission regulation.

TracFone acknowledged that, by public notice issued September 30, 2016, the Wireline Competition Bureau stated that such a units plan would not be acceptable. However, that proposal was never the subject of public comment and was never considered by the full

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Commission. Moreover, we expressed the view that the Bureau's public notice was premised upon an inappropriate reading of the applicable rule. Specifically, 47 C.F.R. § 54.408(a)(1) defines minimum service standard as "[t]he level of service which an eligible telecommunications carrier must **provide** to an end user in order to receive universal service support." (emphasis added). We explained that an appropriate interpretation of the word "provide" as used in that rule means to make available. Under the units proposal described herein, Lifeline providers would be providing, *i.e.*, making available to Lifeline consumers, quantities of voice telephony service or mobile broadband service sufficient to comply with the minimum standards and would allow enrolled Lifeline consumers to determine how to use the quantity of service being made available to them. Because TracFone's units proposal for meeting the minimum service standards is fully consistent with the current rules, including, specifically, 47 C.F.R. 54.408(a)(1), this proposal could be adopted by the Commission through a declaratory ruling or clarification notice, and would not require a rulemaking proceeding. Therefore, it could be adopted and implemented prior to the December 1, 2017 date that the increased minimum service standards will become effective.

We provided Dr. Schwarz with a presentation document which summarizes the units proposal. A copy of that document is enclosed herewith.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for TracFone.

Sincerely,



Mitchell F. Brecher

cc: Jay Schwarz, Ph.D

enclosure

TracFone Wireless, Inc.

**Presentation to Office of
Chairman Ajit Pai**

September 19, 2017

TRACFONE®

An Alternative Approach to Lifeline Minimum Standards

"Some recipients might want a broadband connection to fill out a job application. But others might just want a simple voice service to use in case of an emergency – the original purpose of the [Lifeline] program. The Commission calls such basic offerings 'second class' service, but I imagine that those who will end up with no service at all might call them a Lifeline."

2016 Lifeline Modernization Order

Dissenting Statement of Commissioner Mike
O'Rielly

An Alternative Approach to Lifeline Minimum Standards

Lifeline Minimum Standards Should be Modified to Allow for Greater Consumer Choice and Flexibility

- Current requirements (as of December 2017)
 - o 750 minutes of mobile voice, or
 - o 1 GB of mobile broadband.

Lifeline subsidy remains at \$9.25

An Alternative Approach to Lifeline Minimum Standards

Commissioner O’Rielly makes a Valid Point – Not all Lifeline-eligible Low-Income Households Want or Need Subsidized Broadband Service.

- Many consumers want or need broadband
- Other consumers want or need telephone service
- Some consumers want or need both.

An Alternative Approach to Lifeline Minimum Standards

Rather than a FCC-Mandated "One Size Fits All" Minimum Standard, TracFone Proposes a Better Idea – Let Lifeline Households Choose How to Use their Lifeline Service.

An Alternative Approach to Lifeline Minimum Standards

A “Units” Proposal

- Starting December 2017, each Lifeline household would receive 1,000 units.
- Each unit can be used for 1 minute of voice service or 1 MB of mobile broadband data.
- Each month, customers will use their units as they see fit based upon their current circumstances and needs.

An Alternative Approach to Lifeline Minimum Standards

- Those consumers who want/need 1 GB of mobile broadband data will have that amount available.
- Those consumers who want and need 1,000 voice minutes will have that amount available (exceeds the 750 minute standard for 2017-2018).
- Those consumers who have need for voice and mobile broadband will be able to use their 1,000 units allowance to meet their own needs.

An Alternative Approach to Lifeline Minimum Standards

The Wireline Competition Bureau's 2016 Guidance Should be revisited.

- By public notice issued September 30, 2016, the WCB provided guidance on Lifeline Broadband Provider requirements (now moot) and on Broadband Minimum Service Standards.
- The September 2016 Guidance explicitly rejected the idea of a units-based minimum service standard.
- It did so acting on delegated authority and without inviting public comment on the proposal.
- That rejection was inconsistent with the WCB's own description in the public notice ("A mobile offering must include at least 500 minutes of mobile voice telephony or 500 MB of mobile BIAS in order to be eligible to receive reimbursement from the Lifeline program.")

An Alternative Approach to Lifeline Minimum Standards

The Wireline Competition Bureau's 2016 Guidance Should be revisited.

- WCB disregards that a unit's proposal does "offer" consumers sufficient voice minutes or mobile broadband data to meet each minimum standard. How a consumer accepts that offer is left to the consumer based on his/her needs and preferences.
- Sec. 54.408(a)(1) defines minimum service standard: "the level of service which eligible telecommunication carriers must **provide** to an end user in order to receive universal service support."
- "Provide" should mean to make available.