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VIA ELECTRONIC FILING

Ms. Marlene H. 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
WC Docket No. 09-197 – Telecommunications Carriers Eligible for Universal Service Support
WC Docket No. 10-90 – Connect America Fund
Motion for Stay or, in the Alternative, Deferral of the Effective Date of Revised 47 C.F.R. § 54.407(c)(2)
EX PARTE PRESENTATION

Dear Ms. Dortch:

On September 8, 2016, this office filed on behalf of our client, TracFone Wireless, Inc. ("TracFone") the above-captioned motion asking the Commission to stay or otherwise defer the effective date of the revision to Section 54.407(c)(2) of its rules. That rule revision, scheduled to become effective on or about December 1, 2016, will reduce the period for de-enrollment from the Lifeline program for non-usage from 60 days to 30 days. That rule, applicable only to those Lifeline providers who do not assess and collect monthly fees from households enrolled in their Lifeline programs, will reduce the non-usage period by fifty percent and will result in many thousands of de-enrollments from the Lifeline program each month.

In its motion, TracFone set forth why its request meets each of the four prongs of the standard for issuance of a stay. It also noted that the Commission's 2016 Lifeline Modernization Order (Lifeline and Link Up Reform and Modernization, *et al.*, 31 FCC Rcd 3962) failed to explain why its 2012 balancing of subscriber interests with the risk associated with potential program fraud was no longer an appropriate balancing. Neither did the Commission articulate any rationale for the rule change other than that it was being made as a *quid pro quo* for the expansion of the definition of usage (for non-usage de-enrollment purposes) to include outbound text messaging.

Although unstated in the Lifeline Modernization Order, TracFone expects that the reduction of the non-usage period was based upon a belief that the reduction would somehow reduce program waste. Such a supposition is not supported by factual evidence. As TracFone previously has indicated to the Commission, approximately 25 percent of its Lifeline households who are de-enrolled for 60 days' non-usage intend to remain in the Lifeline program and re-enroll within one month of their de-enrollment. For those households, de-enrollment under the 60 day rule results in program savings with regard to the 75 percent who do not re-enroll.

What TracFone has not previously shared with the Commission which it believes is very relevant to its request is the following: Most Lifeline households who do not use their service for thirty days do use the service between days 31 and 60. Specifically, TracFone examined its enrollee usage records for first quarter 2016 (the most recent quarter for which such data are available). According to those data, 72 percent of Lifeline households who did not use their service for 30 days used their service within the next 30 days *(i.e.*, within 60 days). Only 28 percent of 30 day non-users did not use the service within 60 days. Had the revised rule been in effect during first quarter 2016, TracFone would have had to de-enroll more than 1.1 million Lifeline households who then used the service within the then-permissible 60 day period.

Given the large number of those de-enrolled households who did not use their service for 30 days but who had no intent to cease using the service, many – perhaps most – would have sought to re-enroll, thereby burdening the service provider and the Universal Service Administrative Company. While awaiting approval of their re-enrollment applications, those Lifeline households would have been left without service for 10 days or more. The foregoing data demonstrate that a 30 day de-enrollment rule will cause many active Lifeline households to lose service, will impose burdens on providers and on USAC, and will result in little, if any, reduction in program waste.

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

Sincerely,

Mitchell F. Brecher

Cc: Mr. Matt DelNero
Mr. Trent Harkrader
Mr. Ryan Palmer
Mr. Nathan Eagan
Ms. Garnet Hanly