



October 24, 2014

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

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

Dear Ms. Dortch,

On October 7, TracFone Wireless, Inc. (TracFone), through its counsel, filed a notice of *ex parte* presentation. TracFone expressed its concerns that “state governments have been attempting impose [sic] state taxes, specifically, 911 taxes, on...the Lifeline telephone assistance program.”¹ TracFone further contended that such “taxation...has the unfortunate consequence of reducing the amount of the federal Lifeline benefit below the level set forth in the Commission’s rules.” Finally, TracFone suggested that the Commission preempt “state taxation of Lifeline services.”

The Montana Telecommunications Association (MTA) urges the Commission to disregard TracFone’s pleadings.

First, MTA notes that TracFone does not remit 911 fees for even its regular, non-Lifeline customers in Montana. Nor does it remit 911 fees for its Lifeline customers in Montana. Yet, presumably, TracFone expects calls to 911 from its consumers in Montana will be routed properly to a public safety answering point. In other words, TracFone expects the 911 system to work for its consumers, but it refuses to pay for the network from which it directly derives benefit. Instead, it expects other telecommunications providers to pay its freight. If TracFone is asking the Commission to be a party to its scheme to avoid its obligation to contribute to the cost of providing 911 services, MTA suggests the Commission may want to decline such an opportunity.

¹ Letter to Marlene Dortch, Secretary, Federal Communications Commission, from Mitchell Brecher, Counsel for TracFone. WC Docket No. 11-42. Lifeline Modernization, Notice of Ex Parte Presentation. October 7, 2014.

Second, as MTA has asserted before,² the level of Lifeline support provided under the Lifeline Reform Order very likely is excessive, making the Lifeline Program a rather profitable enterprise for TracFone and other prepaid wireless Lifeline providers. Thus, reducing the amount of Lifeline benefit that TracFone receives (assuming TracFone were to “eat” the 911 fee for which it is responsible) will cause no harm to TracFone.

Finally, MTA concurs with comments filed by NTCA—the Rural Broadband Association that without specific statutory authority to preempt state law, the Commission lacks the authority to preempt state “taxation” of Lifeline Service.³

Respectfully Submitted,

/s/

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² See, for example, Comments of the Montana Telecommunications Association. WC Docket No. 11-42. Lifeline Modernization. April 2, 2012. “Giving prepaid wireless ETCs a SLC-based support amount is directly analogous to providing them with identical support. The Commission has found that “[t]he support levels generated by the identical support rule bear no relation to the efficient cost of providing mobile voice service in a particular geography...[The] identical support rule does not provide an amount to any particular carrier that is reasonably calculated to be sufficient but not excessive for universal service purposes.”

³ Comments of NTCA—The Rural Broadband Association. *In the Matter of Electric Power Board of Chattanooga, Tennessee; City of Wilson, North Carolina Petitions, Pursuant to Section 706 of the Telecommunications Act of 1996, Seeking preemption of State Laws Restricting the Deployment of Certain Broadband Networks*. WCB Docket Nos. 14-115 and 14-116. August 28, 2014.