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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
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

On June 5, 2015, Javier Rosado, Senior Vice President, Alternative Businesses, TracFone Wireless, Inc., Mark Rubin, Senior Executive, Government Relations, TracFone, and undersigned counsel met with Commissioner Mignon Clyburn and with Rebekah Goodheart, Legal Advisor to Commissioner Clyburn. During the meeting, we discussed the Lifeline program supported by the federal Universal Service Fund and the Commission's forthcoming rulemaking proceeding to reform the Lifeline program.

We discussed the Commissioner's stated desire to modernize the program but noted that the program was significantly modernized in 2008 when the Commission wisely allowed wireless services to be provided to qualified low income households through the Lifeline program. That modernization resulted in a dramatic increase in participation in the historically underutilized Lifeline program among qualified low-income households. We also discussed the Commissioner's stated proposals for reforming Lifeline that she has addressed in several public statements. We provided Commissioner Clyburn and Ms. Goodheart with a "talking points" outline of TracFone's views on those proposals as well as certain of its ideas for other Lifeline program reform. A copy of that outline is attached to this letter.

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

Attachment

cc: Hon. Mignon Clyburn
Ms. Rebekah Goodheart

Attachment

TRACFONE WIRELESS, INC. MEETING WITH
FCC COMMISSIONER MIGNON CLYBURN
JUNE 5, 2015

I. **Lifeline should be reformed to prevent waste, fraud and abuse and to ensure that Universal Service Fund resources are used efficiently, but it is an important program which must be preserved so that it remains available to those who need it.**

a. Cries of "massive growth" in the program since 2008 disregard the fact that prior to 2008, Lifeline was very underutilized.

i. Nationally, about 33% of qualified low-income households were enrolled (which included California where more than 131% were enrolled). Without California, participation rate was around 20%.

ii. In some states, it was much lower (*e.g.*, in South Carolina, 7.5%; DC, 21.5%; Maryland, 7%; Virginia, 6.6%; Kansas, 10.3%).

iii. It was not until the Lifeline program was "modernized" in 2008 to include wireless as a Lifeline-supported service. Thousands of previously unserved low-income households took advantage of the opportunity to enroll in wireless Lifeline programs. Still, only about half the qualified low-income population receives Lifeline support.

b. TracFone, the nation's largest provider of Lifeline service, has long advocated for rules which would prevent fraud and conserve resources. Examples of TracFone proposals already adopted include:

i. Elimination of Link Up (except for tribal areas);

ii. Mandatory obtainment of name, address, and Social Security Numbers (last 4 digits);

iii. De-enrollment for non-usage;

iv. One-per-household.

c. Other still-pending reform proposals:

i. Mandatory eligibility document retention;

ii. Prohibit in-person handset distribution;

iii. Revise definition of "usage" for non-usage de-enrollment to include texting.

II. TracFone agrees with some of Commissioner Clyburn's proposals, but disagrees with others.

a. Minimum service standards – TracFone does not object to establishing service standards but questions whether it is necessary for FCC to mandate quantities of usage.

i. Wireless Lifeline plans evolved from 68 minutes per month to 250 minutes with no federal or state government involvement. Competition, not regulation, led to that more than three-fold benefits increase.

ii. TracFone, on its own, enhanced its Lifeline plans to include unlimited texting. For many consumers, that is the practical equivalent of unlimited service.

iii. What should minimum service standards include?

1. Quantities of minutes?

2. Service features (*e.g.*, call waiting, caller ID, 3-way calling, other)?

3. All distance calling and roaming?

4. Texting?

iv. Whether standards should be the same for wireline and wireless?

b. Whether providers should determine customer eligibility – TracFone disagrees that someone other than providers should determine customer eligibility for Lifeline.

i. TracFone has invested heavily in systems and processes which enable the company to accurately and efficiently determine which applicants are Lifeline-eligible and to deny enrollment to those who are not eligible. The cost of those systems and processes has been borne by TracFone, not by the government, not by USAC, not by any third party vendor;

ii. Use of government entities or contracting third parties (*e.g.*, Xerox in California) is very costly – costs which place upward pressure on the USF and costs which reduce funds available to Lifeline and other USF programs;

iii. If some companies have experienced duplicate enrollment, enrollment by non-eligibles, and other fraud problems, those problems are the result of those companies' systems and the lack of specific standards and rules; not by the fact that third parties were not performing eligibility determinations;

iv. Much about the wisdom (or lack thereof) of third party Lifeline eligibility determinations can be learned by observing which ETCs favor that approach;

1. The only companies who have expressed support for third party eligibility verification are companies whose efforts to enroll Lifeline customers have been minimal;

2. AT&T, Verizon and CenturyLink expended little effort to enroll Lifeline customers in their wireline service (which explains why participation levels were abysmally low prior to the advent of wireless ETCs in 2008 and the offering of Lifeline for the first time by companies who actually wanted to serve Lifeline customers;

3. If the only ETCs who favor third party eligibility verification are companies which have shown little interest in serving that market, that suggests that their motivation is reducing their own operating and compliance costs, not improving the program or facilitating participation by qualified low income households.

v. Solution is to establish and strictly enforce requirements applicable to all ETCs for determining customer eligibility.

c. <u>Broader participation through a streamlined approval process</u> – TracFone supports a streamlined approval process but strongly opposes elimination of the ETC designation requirement to offer Lifeline service.

i. Allowing providers to offer Lifeline without being designated as ETCs would be unlawful. Section 214(e)(2) of the Communications Act: "A common carrier **designated as an eligible telecommunications carrier** . . . shall be eligible to receive universal service support in accordance with section 254 . . . ." (Common carriers – including providers of broadband Internet access service who have been reclassified as common carriers – may not receive universal service support unless they are designated as ETCs);

ii. State commission ETC designation proceedings vary greatly in time and complexity with some states using the ETC process (limited by 47 U.S.C. 214(e)(2)) to enforce unrelated state requirements such as state tax laws, and unrelated federal requirements such as the FCC's unlocking policy;

iii. The FCC should adopt standards and time limits on ETC designations similar to the wireless tower siting "shot clock." For example, if an ETC designation application remains pending at the state commission for more the 12 months, the ETC designation either should be deemed granted if not denied within 12 months, or the applicant should have the right to seek ETC designation from the FCC for that state;

iv. No one should be allowed to provide Lifeline service supported by the USF without obtaining ETC designation either from a state commission pursuant to 47 U.S.C. 214(e)(2) or from the FCC pursuant to 47 U.S.C. 214(e)(6);

v. Proposals by certain providers, including cable operators and telephone companies, to offer generous broadband programs are encouraging. However, the FCC should not be persuaded by those proposals to relieve any companies WHO ARE COMMON CARRIERS of the statutory requirement to obtain ETC designation;

vi. The best way to implement measures to prevent fraud and to enforce those measures is through the accountability inherent in the ETC designation process. Allowing entities to provide Lifeline-supported service outside the process will invite non-qualified, irresponsible companies into the program and it will be more difficult and time-consuming for the FCC and state commissions to take enforcement actions against those companies if they operate outside the ETC designation process.

d. TracFone favors coordinated enrollment with other programs

i. Coordinated enrollment with other state programs has been implemented in several states, such as Florida. It can work;

ii. Equally important as coordinated enrollment is access to eligibility databases. Most databases for Lifeline-qualifying programs are maintained at the state level. The FCC should be encouraging states to allow ETCs to access those databases. [note: one company which has advocated having third parties perform enrollment verification has actively lobbied against TracFone efforts to obtain access to state eligibility databases for all Lifeline providers];

iii. To date, TracFone has negotiated database access arrangements in about 23 states, but more can be done and the FCC could be helpful [note: those state databases do not contain information for all Lifeline-qualifying programs, but usually cover the largest programs, so they are not perfect, but are very helpful];

iv. A voucher system is a bad idea and should not be considered.

1. A voucher system removes any incentive for companies to actively market Lifeline programs and to develop innovative offerings to attract qualified consumers;

2. A voucher system would lead to a return to the pre-2008 period when Lifeline participation was very low due, in large part, to the lack of effort by telephone companies to promote Lifeline enrollment;

3. Low-income, Lifeline-eligible households have benefitted from the development of a competitive market for Lifeline services. With companies actively competing to be their Lifeline provider, consumers have available more choices and greater value than they had during the period where Lifeline was only available as a discount off the telephone companies' basic local exchange service bills.

e. Public-private partnerships and outreach – TracFone supports public partnerships and outreach but they are not a panacea.

i. The best advocates for Lifeline participation are the service providers. Outreach by government entities and non-governmental organizations can be helpful as a supplement to the ETCs' outreach efforts.

ii. TracFone and other companies have been able to partner with state and local governments and with non-profit groups to educate consumers about Lifeline availability. A competitive market creates incentives for those companies who want to serve the Lifeline market to create such partnerships and to work with NGOs.