**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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| In the Matter of | ) | |
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| Petitions Concerning Eligible | ) | CC Docket No. 96-45 |
| Telecommunications Carrier Designations | ) | |
| And the Lifeline and Link-Up | ) | WC Docket No. 03-109 |
| Universal Service Support Mechanisms | ) | |

# COMMENTS OF VERIZON[1]

## Introduction and Summary

The Public Notice seeks comments on petitions by AT&T and TracFone, which ask the Commission to change the rules regarding eligible telecommunications carrier ("ETC") status so that carriers can participate *only* in Lifeline and Link-Up support programs, without offering their customers high cost support services.[2] The petitions should be denied. The statute does not permit ETCs to pick and choose the universal service supported services they will provide customers. Moreover, if the petitions were granted, it is likely that customers would face the choice of receiving *either* high cost *or* low income support, as carriers who could become ETCs for one purpose but not another might not offer both services. There also would be considerable costs and administrative

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[1] The Verizon telephone companies ("Verizon") are the local exchange carriers affiliated with Verizon Communications Inc., and are listed in Attachment A.

[2] *See* Public Notice, DA 04-2750 (rel. Aug. 30, 2004). AT&T's petition is for reconsideration of an FCC order denying its previous request. *See* AT&T Petition for Limited Reconsideration, WC Docket No. 03-109 (filed July 21, 2004) ("AT&T Petition"). TracFone's requests are for pending ETC petitions in New York, Virginia, and Florida, where it has amended its petitions to "narrow[] the scope" of its requests and seek ETC status only for "Lifeline service." *See, e.g.*, TracFone Amendment to Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, CC Docket No. 96-45 (filed Aug. 16, 2004) ("Amended Virginia ETC Petition").

burdens associated with administering a dual ETC regime. Both the Joint Board and the Commission have rejected similar arguments in the past, and the Commission should reject these petitions as well.[3]

## Argument

### I. The Commission Should Not Allow ETCs to Provide Only Lifeline Support, But Not Other Universal Service Support, to Customers

The Commission already has rejected suggestions that some carriers be able to provide only Lifeline support (but not support provided under other universal service programs) to their customers. *See Lifeline Order*, ¶ 54. It should reject these petitions as well.

First, section 254(e) restricts receipt of universal service support to eligible telecommunications carriers ("ETCs") designated under section 214(e). AT&T originally proposed that non-ETCs receive Lifeline support. However, Verizon pointed out that such a proposal was not consistent with the Act, because section 254(e) restricts universal service support to ETCs.[4] AT&T has responded by now arguing that there should be

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[3] *See Lifeline and Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, ¶ 54 (2004) ("Lifeline Order"); *Federal-State Joint Board on Universal Service*, Recommended Decision, 18 FCC Rcd 6589, ¶ 61 (2003) ("Recommended Decision"). AT&T filed the instant petition for reconsideration because it claims that the *Lifeline Order* did not adequately address its arguments. *See* AT&T Petition, at 1-3.

[4] *See* Verizon Reply Comments, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 01J-2, at 4 (filed Feb. 28, 2002). In the First Universal Service Order, the Commission opined that it would be possible to allow non-ETCs to receive Lifeline support. *See Federal-State Joint Board on Universal Service,* Report and Order, 12 FCC 8776, ¶¶ 369-370 (1997) ("First Universal Service Order") (stating that the Commission has "authority under sections 1, 4(i), 201, 205 and 254 to extend Lifeline to include carriers other than eligible telecommunications carriers" but "decline[ing] to do so at the present time"). However, because of the restrictions of Section 254(e), it would appear that in order to provide payments to non-ETCs, such payments could not be funded by universal service support.

separate "ETC" designations, one for high cost support and another for Lifeline support.[5] This suggestion makes a mockery of the statutory requirements of section 214(e), which allows universal service support to go only to those carriers who undertake the obligations necessary to provide basic services to *all* customers. *See* 47 U.S.C. § 214(e). The statute makes no provision for making carriers ETCs for some purposes but not others, or for carving out pockets of support into different buckets.

There also is no policy justification for allowing a carrier that does not agree to undertake the entire ETC obligations to recover from the universal service fund. As an initial matter, there would be significant administrative burdens to federal and state regulators if there existed separate requirements for, and certifications of, "High Cost ETCs" and "Lifeline ETCs." And, more importantly, as the Commission reasoned when originally denying AT&T's suggestion, "[e]xtending Lifeline/Link-Up universal service support to carriers that do not satisfy the requirements for designation as an ETC could also serve as a disincentive for other carriers to comply with their ETC obligations." *Lifeline Order*, ¶ 54. If the Commission were to allow carriers to become ETCs for some purposes but not others, such carriers could choose to comply with the lower threshold ETC obligations, denying customers the benefit of a full ETC provider.

Moreover, Lifeline/Link-Up customers are only allowed to receive support for one line.[6] The Commission also is considering proposals to limit high cost support to

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[5] *See* AT&T Comments, WC Docket 03-109, at 2-6 (filed Aug. 18, 2003); AT&T Petition, at 1.

[6] *See* Recommended Decision, ¶ 4; 47 CFR § 54.411(a)(1). TracFone's petitions do not state how it would ensure that its customers would not receive Lifeline service for more than one line.

only one primary line per customer.[7] Granting the AT&T and TracFone petitions would mean that customers soon might have to face the choice of receiving Lifeline support from one carrier, or high cost support from another, but not both supported services from one ETC.

In addition, there would be little or no benefit to consumers if the petitions were granted. AT&T points out that "[i]n most states," CLECs *already* "are required by state law to provide Lifeline Service at below cost rates as a condition to local market entry." AT&T Petition, at 3. In addition, resellers that purchase services from ILECs are able to provide Lifeline services to their customers by purchasing Lifeline service at wholesale rates from the ILEC.[8] Thus, AT&T's petition frankly reveals that it is not designed to increase the number low-cost offerings to low-income consumers, but instead to increase the compensation AT&T receives for these customers, without AT&T having to also undertake the other, "costly" obligations of becoming an ETC. *See AT&T Petition*, at 3-4 (claiming that because it is so "costly" to comply with state ETC requirements, CLECs "often provide Lifeline service without applying for ETC certification").

TracFone's arguments fare no better. As an initial matter, TracFone's petitions for ETC status independently should be rejected without reaching the "Lifeline" question, because TracFone is a pure reseller, and thus is not eligible for ETC status, regardless of the criteria.[9] TracFone has admitted as much, and sought forbearance from the statutory

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[7] *See Federal-State Joint Board on Universal Service*, Notice of Proposed Rulemaking, 19 FCC Rcd 10805, ¶ 3 (2004).

[8] Recommended Decision, ¶ 61.

[9] Verizon Comments, *TracFone Petition for Forbearance and TracFone Petition for ETC Designation in New York*, CC Docket No. 96-45, at 7-14 (filed July 26, 2004) ("Verizon Forbearance Comments").

requirement that an ETC provide services using its own facilities.[10] Faced with numerous oppositions to its petition for forbearance and its petition seeking ETC status in New York, TracFone sought to amend its petitions to "narrow" the scope of its request to seek only Lifeline support.[11] Thus, TracFone asks that the Commission both forbear from the statutory requirements for ETC status *and* revamp the entire system for administering the ETC program so that it can be eligible for support for those services it wishes to provide. Both requests should be denied.

TracFone's primary arguments are that many of its customers are "low income consumers," many of which are ones that "other wireless carriers do not want to serve."[12] TracFone offers no evidence to support these bare conclusions. Moreover, the fact is that all carriers that become ETCs – including "other wireless carriers" – have an obligation to advertise and offer Lifeline services to *all* customers in their designated service areas, not just those that they "want to serve."[13] Many of the wireless carriers from whom TracFone purchases resale services already have become ETCs, or are seeking ETC status, in the territories where TracFone is seeking to become a "Lifeline" ETC. Thus, even with the more "narrow" request to receive ETC support only for Lifeline services,

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[10] *See* TracFone Petition for Forbearance, CC Docket No. 96-45 (filed June 8, 2004) ("TracFone Forbearance Petition").

[11] *See, e.g.*, Amended Virginia ETC Petition; TracFone Wireless, Inc. Amendment to Petition for Designation as an Eligible Telecommunications Carrier in the State of Florida, CC Docket No. 96-45 (filed Aug. 16, 2004) ("Amended Florida ETC Petition"); TracFone Wireless, Inc. Amendment to Petition for Designation as an Eligible Telecommunications Carrier in the State of New York, CC Docket No. 96-45 (filed Aug. 16, 2004) ("Amended New York ETC Petition").

[12] Amended Virginia ETC Petition, at 2; Amended Florida ETC Petition, at 2.

[13] *See* 47 U.S.C. § 214(e)(1)(B).

TracFone's request for universal service support still presents the problem of "double recovery" that caused the Commission years ago to reject similar requests for forbearance.[14]

TracFone also has argued that Lifeline service is "underutilized" in the states in which it seeks "Lifeline ETC" designation.[15] However, as Verizon has pointed out in numerous occasions, the test for success of this universal service program should not be measured based on the number of customers that receives support from the Lifeline program, but whether overall telephone subscribership is adequate.[16] Regardless, the Commission has recently adopted several measures designed to increase participation in the Lifeline program. *See Lifeline Order,* ¶¶ 2, 7-18. If the Commission wishes to examine other methods for further increasing participation in the Lifeline program, the way to do that is to invite comments in a further notice of proposed rulemaking, not to entirely rewrite the ETC process so that TracFone can participate.

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[14] Verizon Forbearance Comments, at 7-10; *First Universal Service Order*, ¶ 179.

[15] TracFone Reply Comments, *Petitions for Designation as an Eligible Telecommunications Carrier in the State of Florida and Commonwealth of Virginia,* CC Docket No. 96-45, at ii (filed Sept. 7, 2004).

[16] *See* Verizon Comments, WC Docket No. 03-109, at 4-5 (filed Aug. 23, 2004); see also Verizon Comments, WC Docket No. 03-109, at 7-13 (Aug. 18, 2003).

## Conclusion

The Commission should deny TracFone's petition for forbearance and petition for ETC designation in Virginia and Florida.

Respectfully submitted,

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## ATTACHMENT A

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.