

July 31, 2009

VIA ELECTRONIC FILING

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

Att: Wireline Competition Bureau
Telecommunications Access Policy Division

Re: CC Docket No. 96-45 In the Matter of Federal-State Joint Board on
Universal Service and TracFone Wireless, Inc., *et al*
Petition for Modification of Annual Verification Condition
EX PARTE PRESENTATION

Dear Ms. Dortch:

On April 27, 2009, this office filed with the Commission on behalf of our client, TracFone Wireless, Inc., a petition for modification of annual verification condition. By supplement to that petition dated June 1, 2009, we provided additional information relevant to the request to modify that condition.

In its petition, TracFone requested that the Commission modify a condition imposed on it by the Commission in its September 2005 order granting TracFone's request for forbearance from application of the facilities-based service requirement set forth at Section 214(e)(1)(A) of the Communications Act and Section 54.201(i) of the Commission's Rules. All that TracFone requested in its modification petition was that the Commission modify the annual verification condition which requires that TracFone verify annually that each of its Lifeline customers remains head of household and receives Lifeline-supported service only from TracFone. TracFone asked that this TracFone-only condition be modified so as to allow it to conduct that annual verification based upon a statistically-valid sample of its Lifeline customers in a manner consistent with the annual verification requirement of continued customer eligibility for Lifeline applicable to all ETCs, including TracFone, codified at Section 54.410(c)(2) of the Commission's rules. In the supplement, TracFone explained how, based on its experience with direct mail response requests, there would likely be a low level of customer response and a resulting de-enrollment of thousands of still-Lifeline-eligible low income consumers.

The purpose for this letter is to provide the Commission with updated information based on TracFone's most recent annual verification efforts during July 2009. The details of those efforts are described in the Declaration of Javier Rosado, TracFone's Senior Vice President - Lifeline Services, attached to this letter. During July, TracFone contacted all of its Lifeline customers who enrolled in its SafeLink Wireless® program in August 2008 -- the first month

that the program was available anywhere. Of those customers contacted, only forty percent responded to the request to verify that they were still head of household and that they received Lifeline-supported service only from TracFone. In other words, sixty percent of customers contacted did not respond. This level of non-response is not surprising. TracFone knows from prior campaigns that consumer responses are low. In fact, a forty percent response rate is higher than TracFone -- or any consumer marketing company -- can reasonably expect from direct marketing efforts.

Unless this unique annual verification condition imposed on TracFone in the 2005 Forbearance Order is modified, then TracFone will be compelled to discontinue Lifeline service to sixty percent or more of its Lifeline customer base. TracFone will be shutting down service in July 31 to the 60 percent of August 2008 enrolled customers that did not respond. While the total number of Lifeline customers which TracFone attempted to verify for August 2008 was relatively low, that number will increase significantly in the coming months given the growth of the SafeLink Wireless® program. When tens of thousands of customers learn early in the month that they did not receive their monthly allocation of SafeLink Wireless® airtime minutes, those customers will be irate -- they will contact TracFone, they will contact their state commissions, they will contact the FCC. This potentially massive disruption of service to thousands of qualified low income households can be avoided simply by allowing TracFone to conduct its annual head of household/Lifeline-supported service only from TracFone annual verification in the same manner as all ETCs, including TracFone, annually verify their Lifeline customers' continued eligibility -- by surveying a statistically-valid sample of the customers in conformance with Section 54.410(c)(2) of the Rules.

In order to avoid the need to terminate service to many low income consumers, to avoid a groundswell of irate consumer reactions and to avoid potential blockage of operations which would result from a massive amount of customer service calls, TracFone respectfully urges the Commission to recognize that this situation warrants immediate relief and to modify the annual verification condition at the earliest possible time.

This letter is being filed electronically pursuant to Section 1.1206(b) of the Commission's rules. If there are questions regarding this letter or about TracFone's pending petition for modification of annual verification condition, please contact undersigned counsel.

Sincerely,



Mitchell F. Brecher

Enclosure

Cc: Ms. Julie Veach
Ms. Jennifer McKee
Mr. Thomas Buckley

DECLARATION

I am Javier Rosado. I am Senior Vice President, Lifeline Services, TracFone Wireless, Inc. My business address is 9700 NW 112th Avenue, Miami, FL 33178.

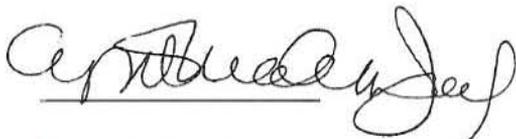
My job responsibilities include overall supervision and management of TracFone's Lifeline program marketed under the brand name SafeLink Wireless®. That service is offered pursuant to designations conferred upon TracFone by the Federal Communications Commission and by certain state commissions to operate as an eligible telecommunications carrier for the limited purpose of offering Lifeline services under the federal universal service program. Those designations are subject to certain conditions imposed by the FCC, including a condition that TracFone verify annually that each of its Lifeline customers is head of household and obtains Lifeline-supported service only from TracFone.

During July 2009, under my supervision, TracFone contacted each of its Lifeline customers who had enrolled in the SafeLink Wireless® program in August 2008 and that were still active. Since that was the first month that the service was offered anywhere, there were only 416 active customers to contact. Recognizing that contacting customers and eliciting responses would be difficult, TracFone utilized several contact methods including direct mail to each customer's residential address, SMS text messages to their wireless handsets, recorded voice blast and live ear messages to their home phones; and e-mails to those customers for whom we had e-mail addresses.

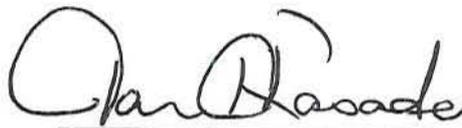
Of those customers contacted using all of the above methods, approximately forty percent responded. The customers who did not verify that they remained head of household and that they continue to receive Lifeline-supported service only from TracFone will be de-enrolled from the program on the last day of July in accordance with FCC requirements. However, those

requirements also require TracFone to de-enroll those customers who simply failed to respond to the information verification requests, many of whom remain eligible for Lifeline support.

Given the dramatic increase in monthly SafeLink Wireless® enrollment commencing in October 2008, it is my expectation based upon my experience with the program and more than 20 years experience in consumer marketing that thousands of Lifeline customers will fail to respond to verification requests and will have to be de-enrolled from the SafeLink Wireless® program. I further expect that many Lifeline customers will be surprised and disappointed when they learn that they have not received their monthly allocations of free wireless airtime minutes under the SafeLink Wireless® program, and that substantial numbers of those disappointed customers will contact TracFone, their state regulatory commissions and the FCC to express their displeasure at losing their Lifeline benefits and request reinstatement; the numbers will be so large that they will likely jam all service channels for all entities involved. For that reason, I urge the FCC to promptly approve TracFone's petition for modification of the annual verification condition so that we can verify our Lifeline customers' continued head of household status and that TracFone is their only provider of Lifeline-supported service, based upon surveying a statistically-valid sample of customers, consistent with annual verification of continued Lifeline eligibility requirement imposed by the FCC on all eligible telecommunications carriers.



Subscribed and sworn to before me,
A licensed notary public, this 31st day July
Of July 2009.



Javier Rosado

My Commission expires:

