

December 5, 2011

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:

This letter is submitted on behalf of TracFone Wireless, Inc. ("TracFone") and is in response to a letter dated November 22, 2011 filed in this proceeding by Cricket Communications, Inc. ("Cricket"). In its letter, Cricket summarized positions asserted by it during recent meetings in which it advocated certain changes to the rules governing the Lifeline program. Like TracFone, Cricket is a provider of wireless services who provides Lifeline as a designated Eligible Telecommunications Carrier ("ETC") in various states. Not surprisingly, Cricket's positions on certain issues are consistent with those of TracFone. However, TracFone respectfully disagrees with several positions expressed by Cricket in its letter.

TracFone agrees with Cricket that Link Up support should be eliminated, especially for carriers which do not impose customary charges to connect customers with the carriers' telecommunications services at the consumers' principal places of residence as required by Section 54.411(a) of the Commission's rules (47 C.F.R. § 54.411(a)). TracFone has explained in prior submissions why Link Up support to such carriers is a waste of at least \$68 million per year in Universal Service Fund resources. Elimination of Link Up support as recommended by Cricket would bring an end to the practice of utilizing Universal Service Fund ("USF") resources by certain ETCs to subsidize their advertising, marketing, customer enrollment, and regulatory compliance costs -- a more blatant abuse of USF resources can hardly be imagined!

TracFone also agrees that there is no longer any justification for continuing to base Lifeline support payments on incumbent local exchange carriers' ("ILEC") subscriber line charges -- a concept which is wholly irrelevant to wireless ETCs, including TracFone, Cricket, and others. However, in de-linking Lifeline support from subscriber line charge levels, the Commission should not adopt a flat reimbursement structure which reduces support amounts to levels which would be insufficient to support meaningful Lifeline benefits to low-income consumers. While ILEC subscriber line charges vary somewhat, the aggregate of Tier 1, Tier 2 and Tier 3 Lifeline support normally is about \$10 per customer per month. That amount has proven sufficient to enable efficient ETCs to provide significant Lifeline benefits to their Lifeline customers.

TracFone strongly disagrees with Cricket's proposal to require Lifeline applicants to provide written documentation of program-based eligibility prior to enrollment while maintaining existing sampling procedures for annual verification. Although Cricket claims that such so-called "full certification" would curb waste, fraud and abuse, it has offered no factual basis for that claim. In fact, nowhere in the extensive record compiled in this proceeding is there any evidence that full certification would prevent waste, fraud and abuse and prevent enrollment by persons not qualified to receive Lifeline benefits. As TracFone has explained in prior filings, in states where TracFone has access to state data bases of recipients of program benefits, there is a very high correlation (in excess of 90 percent) between those who have self-certified under penalty of perjury that they are enrolled in qualifying programs and those who are reflected in state data bases as being enrolled in qualifying programs. What full certification would do is prevent many thousands of Lifeline-eligible consumers from enrolling in Lifeline. Many such consumers do not have readily available documentation of their enrollment in qualifying programs. Of those that do have such documentation, most do not have access to scanners, copying machines, fax machines and Internet access-enabled computers, all necessary to provide such documentation to their ETC. Therefore, it is not surprising that in states which follow the current federal requirement of self-certification, more than seventy percent of those who contact TracFone regarding its SafeLink Wireless[®] Lifeline program complete the enrollment process. In states such as Missouri which require full certification, approximately thirty percent complete the process.

TracFone has effectively prevented improper enrollment in Lifeline by requiring all applicants in all states where TracFone offers Lifeline service as an ETC to provide date of birth and Social Security Number (last four digits) in addition to full name and address. Requiring applicants to provide date of birth and Social Security Number (last four digits) information has enabled TracFone to be assured that applicants are who they claim to be and has prevented fraudulent enrollment. TracFone recommends that all ETCs be required to provide date of birth and Social Security Number (last four digits).

If the Commission is seriously committed to eliminating waste, fraud and abuse by removing unqualified persons from Lifeline, then it should require that all ETCs do what TracFone currently is required to do (as a condition of forbearance from the facilities-based requirement of Section 214(e)(1)(A) of the Communications Act) -- verify annually that each of its Lifeline customers remains eligible rather than requiring that only a sample of the customer bases be verified as suggested by Cricket. TracFone contacts every enrolled Lifeline customer annually for the purpose of having those customers self-certify that they remain Lifeline-eligible, remain head of household and only receive Lifeline-supported service from TracFone. Those customers who do not self-certify their continuing eligibility or who do not respond are de-enrolled from the Lifeline program. Under the existing sampling procedures required of other ETCs, only those sampled customers who either do not respond to verification requests or who indicate that they no longer are eligible for Lifeline support are de-enrolled. The entirety of the non-sampled portion of each ETC's customer base remains enrolled, and the ETC continues to receive monthly USF support for those customers without regard to how many would not remain enrolled if they had to be verified.

The Commission should summarily reject the proposal that all ETCs be required to impose monthly fees on their Lifeline customers. Apparently, Cricket has chosen a Lifeline model which requires Lifeline customers to pay monthly fees for discounted service -- a model similar to those of traditional incumbent wireline local exchange carrier ETCs. TracFone has embraced a different model. TracFone receives the same monthly per customer support from the USF as does Cricket and other ETCs, but uses that support to provide its Lifeline customers with quantities of free monthly wireless airtime. Several other wireless ETCs have implemented similar plans. In opposing Cricket's mandatory charge proposal, TracFone is not saying that its model is better or that there is anything wrong with Cricket's plan. This is what market-based competition is about.

Telecommunications competition brings to consumers choices of products, services, and pricing plans. Until recently, such choices were not available to low-income households through Lifeline programs. The introduction of alternative Lifeline offerings like those of TracFone, Cricket and others now affords Lifeline customers choices -- choices long denied to them. Currently, more than 3.8 million Lifeline customers have chosen TracFone's free service plans. Other consumers have chosen discounted plans like those of Cricket and others. In reforming and modernizing the Lifeline program, the Commission should not, as advocated by Cricket, micromanage Lifeline by dictating what types of service plans may be available, thereby depriving low-income consumers of the benefits of competition and competitive choice.

For the same reasons that the Commission should not dictate minimum charges for Lifeline plans, neither should it require Lifeline providers to offer unlimited usage. Some consumers will prefer unlimited usage plans, even if that usage is confined to local calling areas and provides no other benefits or features. Other consumers will prefer specified quantities of usage (such as, for example, TracFone's 250 minute per month offering) in return for other benefits such as nationwide calling without toll or roaming charges, included features such as voice mail, caller ID, call waiting, etc. The point is that these choices should be made by consumers. They should not be made for consumers by the Commission.

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

cc: Ms. Sharon Gillett
Mr. Trent Harkrader
Ms. Kimberly Scardino
Mr. Jonathan Lechter
Ms. Jamie Susskind