

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Lifeline and Link Up)	WC Docket No. 11-42
Reform and Modernization)	
)	
Lifeline and Link Up)	WC Docket No. 03-109
)	
Federal-State Joint Board on)	
Universal Service)	CC Docket No. 96-45

**COMMENTS OF
THE TELECOMMUNICATIONS REGULATORY BOARD OF PUERTO RICO
IN RESPONSE TO THE EMERGENCY PETITION FOR DECLARATORY RULING
AND INTERIM RELIEF FILED BY TRACFONE WIRELESS, INC.**

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March 9, 2012

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The Telecommunications Regulatory Board of Puerto Rico (“Board”), through undersigned counsel, respectfully submits these comments in response to the Public Notice released by the Federal Communications Commission (“Commission”) on February 27, 2012, seeking comments on the Emergency Petition for Declaratory Ruling and Interim Relief filed by TracFone Wireless, Inc. (“TracFone”).

I. INTRODUCTION AND SUMMARY

The Board is the agency responsible for regulating telecommunications and information services in Puerto Rico.¹ It has a statutory mandate from the Puerto Rico General Assembly to “preserve and promote universal service through predictable, specific and sufficient support mechanisms”² while ensuring that the Lifeline subsidy is limited to “a single wireless telephone line or to a single wireless service for the family unit”³ and that there are penalties “established

¹ 27 L.P.R.A. § 265 *et seq.* (“Law 213”).

² 27 L.P.R.A. § 269e(a)(1).

³ 27 L.P.R.A. § 269e(d)(3).

in those cases in which citizens attempt to receive benefits to which they are not entitled.”⁴ In discharging its statutory obligation, the Board has been taking steps to reduce, from its Lifeline rolls those residents who are improperly receiving double (or triple or more) benefits per person or family unit.

The Board’s ongoing effort balances the need to eliminate waste, fraud and abuse and its statutory obligation to ensure the residents of Puerto Rico are not deprived of service. To that end, while the Board’s enabling legislation provides that a person receiving an improper Lifeline benefit be barred from receiving any benefit in the future, the Board initially decided to reduce this period to one year. The Board then determined, after consultation with various ETC providers, that an improper recipient would be prevented from receiving a Lifeline benefit for only four months.

Additionally, a recipient can, within 20 days of receiving notice that he/she is receiving an improper duplicate benefit, file a form explaining why he/she should continue receiving that duplicate benefit.

Finally, based upon information from recipients who have utilized the Board’s appeal process, the Board believes that many of the duplicate payments are the result of misconduct by the carriers, and not the recipients.⁵ Although the Board is still gathering information on this issue, based on the information gathered to date, the Board resolved, on March 7, 2012, that customers who had been receiving a duplicate service could continue receiving one benefit from the first provider.

⁴ 27 L.P.R.A. § 269e(d)(8).

⁵ The Board has taken multiple statements from recipients about improper and fraudulent sales practices by carriers and intends to refer these materials to the Commonwealth Department of Justice and the United States Department of Justice.

While virtually all of the Lifeline providers in Puerto Rico have agreed to work with the Board in making sure the laudable goals of the Lifeline program are achieved, while eliminating improper multiple benefits, TracFone has not. Instead, in its petition, it argues that the Board's actions will deprive residents of service, and that the Board should, instead, adopt a different process preferred by TracFone.

TracFone is not a fourth Board member. The Board has authority, under Commonwealth law, to oversee, implement and enforce the Lifeline program. Nothing that the Board is doing violates federal law or the Commission's February 6 Order. While TracFone has its own view about how the Board should audit the Lifeline program, it has not shown that the Board's process is preempted or inconsistent with the Commission's recent orders.

TracFone's alleged concern about residents in Puerto Rico losing telecommunications service is a transparent attempt to preserve its own economic model. As explained in more detail below, any resident who receives notice that it risks losing multiple Lifeline benefits can seek reconsideration at the Board and explain why they should be allowed to continue receiving multiple benefits. Hundreds of residents have already invoked this process, and the Board remains ready, willing and able to process any and all other requests. The Board has also determined that those customers who had been receiving a duplicate service could continue receiving one benefit – from the first provider.

For all of these reasons, the Commission should reject the relief sought in TracFone's petition.

II. BACKGROUND

A. The Board Has Acted In Furtherance Of Its Statutory Mandate Since Its Creation In 1996

In 1996, recognizing the fundamental changes in telecommunications regulation occurring in the United States, the Puerto Rico General Assembly enacted the Puerto Rico Telecommunications Act to establish the Board and charge it with protecting the residents of Puerto Rico and ensuring a pro-competitive telecommunications market.⁶ Law 213 makes it the public policy to:

- provide universal service at a fair, reasonable, and affordable rate for all citizens;⁷
- establish specific, predictable, and sufficient support mechanisms to preserve and develop universal service;⁸
- guarantee all subscribers that service shall not be discontinued unless there is just cause, and in each case, only after due notice.⁹

In discharge of the statutory obligation to provide fair, reasonable and affordable service, the Board is statutorily obligated to “preserve and promote universal service through predictable, specific and sufficient support mechanisms.”¹⁰ Accordingly, the Puerto Rico General Assembly has outlined comprehensive rules and procedures governing the Lifeline program.¹¹ Relevantly here, the Puerto Rico General Assembly authorized the Board, in 1996, to amend its regulations

⁶ 27 L.P.R.A. § 265 *et seq.*

⁷ 27 L.P.R.A. § 265(b).

⁸ 27 L.P.R.A. § 265(d).

⁹ 27 L.P.R.A. § 265(t).

¹⁰ 27 L.P.R.A. § 269e(a)(1).

¹¹ *Id.* at § 269e.

to “contain, among other things, the penalties to be established in those cases in which the citizens make an attempt to receive benefits to which they are not entitled.”¹²

Since its creation, the Board has undertaken major initiatives to discharge its statutory mandate; has presided over interconnection arbitrations and approved interconnection agreements; has conducted a major proceeding on reducing intrastate access rates; has consistently advocated on behalf of the telecommunications consumers of Puerto Rico and has conducted multiple proceedings related to the protection of a competitive environment in Puerto Rico.

The Board’s authority to act for the benefit of the consumers of Puerto Rico has been confirmed by numerous courts.¹³ During its 16-year history, the Board has overseen and managed a transition from a telecommunications market dominated by a government-owned monopoly to one characterized by competition and increasing sensitivity to the right of consumers to expect consistent high-quality service. Since the creation of the Board, Puerto Rico Telephone Company, Inc. (“PRTC”), once a government-owned carrier, has been privatized. Since privatization, substantial progress has been made on improving the quality of service.

¹² *Id.* at § 269e(d)(8).

¹³ *See, e.g., Puerto Rico Telephone Company, Inc. v. Telecommunications Regulatory Board of Puerto Rico*, 665 F.3d 309 (1st Cir. 2011) (affirming the Board’s decision on multiple issues, including its authority to adopt liquidated damages and its TELRIC application and rejection of an ILEC’s argument that would have led to higher costs); *Centennial Puerto Rico License Corp. v. Telecommunications Regulatory Board of Puerto Rico*, 634 F.3d 17 (1st Cir. 2011) (holding that the Board was correct in all its decisions, including requiring an ILEC to take steps to avoid charging a CLEC an unnecessary fee); *WorldNet Telecommunications, Inc. v. Puerto Rico Tel. Co.*, 497 F.3d 1 (1st Cir. 2007) (upholding Board’s authority to impose measures to improve overall performance); *Puerto Rico Tele. v. Telecommunications Reg. Bd.*, 189 F.3d 1, 7 (1st Cir. 1999) (confirming the Board’s authority to act for the benefit of consumers in Puerto Rico).

In addition to acting at the Commonwealth level, the Board has repeatedly acted to protect the residents of Puerto Rico by participating in proceedings at the Commission. For example, in WT Docket No. 06-113, it submitted comments on the proposed transfer of PRTC to America Movil, asking the Commission to make sure that America Movil's commitment to invest in Puerto Rico was real, quantifiable and verifiable.¹⁴ The Commission thereafter approved the transfer, but required that America Movil invest \$1 billion over five years to improve service in Puerto Rico.¹⁵ The Commission also required America Movil to provide "a written report to the Commission on an annual basis describing the progress it has made in deploying infrastructure used to provide basic telephone and broadband services in Puerto Rico. This report, which shall include quantifiable and verifiable data shall be due to the Commission on December 31 of each calendar year." *Id.*

The Board has also submitted comments in the Commission's docket examining whether Puerto Rico warranted an insular mechanism¹⁶ and in other dockets, urging the Commission to act for the protection of the residents of Puerto Rico.¹⁷

B. The Board's Ongoing Lifeline Docket

Through the provisions of the Universal Service Bylaws of January 14, 2010, Ruling No. 7795, the Board implemented new rules for the State Universal Service Program, which

¹⁴ See July 14, 2006 Petition to Deny.

¹⁵ *Application for Authority to Transfer Control of Telecomunicaciones de Puerto Rico, Inc.*, 22 FCC Rcd 6195 (2007).

¹⁶ See October, 9, 2008 letter, May 26, 2006 Reply Comments, April 15, 2005 letter in Federal-State Joint Board on Universal Service, High Cost Universal Service Support (CC Docket No. 96-45 and WC Docket No. 05-337).

¹⁷ See June 4, 2008 letter in CC Docket No. 97-80 (urging the Commission to grant the requested waiver of Choice Cable TV for the benefit of the consumers in southwestern Puerto Rico); March 19, 2007 Comments in CS Docket No. 97-80 (urging the Commission to grant a § 76.1204(a)(1) for the benefit of Puerto Rico consumers).

comprises the provision of basic quality telecommunication services on Puerto Rico for its citizens at a reasonable and affordable price, as established by Law 213¹⁸ and the Federal Communications Act of 1934¹⁹.

To monitor and protect the solidity of the Universal Service Funds of Puerto Rico, the Board ordered the ETCs to disclose and provide, on a quarterly basis, month-by-month information of the users of the Lifeline and Linkup programs.²⁰ As a result, the Board became aware of many cases where the subscribed participants were receiving the service from more than one carrier. This is very likely an illegal erosion of public funds.

On January 27, 2011, the Board issued a Resolution and Order in which it began an audit into the duplication of Lifeline services to certain recipients. In addition, the Board notified the ETCs that it would be retaining the payment for the services rendered between September and December 2010, until the issue of the duplication of services was clarified.

On July 13, 2011, the Board adopted new interim rules which ratified existing requirements of reporting, implemented additional procedures, and added additional responsibilities to the process of providing the information requested regarding the Lifeline and Linkup services.²¹ The Board's interim rules required the ETCs to send, to the Board: (a) Social Security number of the user; (b) first name and the two last names; (c) physical address; and (d) subscription date, among other information, so that the Board could assemble a database.

¹⁸ 27 L.P.R.A. § 265 *et seq.*

¹⁹ 47 U.S.C. § 154 *et seq.*

²⁰ Among its resolutions and orders related to the request of program users' information, the Board issued an Resolution and Order on September 22, 2010 in which it orders the ETCs to disclose the information for the months of July, August, October and November 2009 and January, February, April and May 2010, and to prospectively inform, stating on the quarter that begins on September 2010 the information required in a month by month basis.

²¹ Exhibit A

The Board's interim rules also provided that, in a family unit, if two or more people in the same family unit were receiving Lifeline funds, then the person who began receiving funds first in time would continue receiving the funds for the unit, but the remaining recipients would no longer be able to receive funds. The Board's interim rules also provided that, if a single person was receiving multiple benefits, he or she would no longer receive any funds for one year. (Although the Board could have held that an improper recipient would be permanently ineligible,²² the Board determined that one year was a more appropriate period of time).

The Board's interim rules provided, however, that any person who was in danger of losing its benefit could appeal that decision at the Board. The Board has established a process wherein customers can come to the Board and participate in an expedited proceeding that would consider whether the person should continue receiving funds, even if he/she is otherwise not eligible to do so, and would receive a determination in less than a month.

Various ETCs sought judicial review of the Board's interim rules in the Puerto Rico Court of Appeals, including a stay of the Board's rules. They argued, essentially, that the Board's retention of the payment for the services rendered through the Lifeline and LinkUp programs and the implementation of the interim rules infringed their due process and was an *ultra vires* act of the Board.

On September 30, 2011, the Puerto Rico Court of Appeals ordered the various ETCs to explain why the cases (which totaled 15 in all) should not be decided under the provisions of

²² Pursuant to the Board's enabling legislation, Law 213, recipients of Lifeline benefits "state, *under penalty* of prejudice and *permanent ineligibility*, that neither he/she, nor any residing member of the family unit have been receiving the benefit of the subsidy provided by said program and for which they are filing [the] application." 27 L.P.R.A. § 269e(11)(3) (emphasis added).

Section 2.13 of the Uniform Administrative Procedure Act (hereinafter “UAPA”),²³ which establishes that the requirements of the UAPA when implementing administrative regulations can be circumvented when the Governor of Puerto Rico certifies that there is an emergency or any other circumstance that warrants such action.

Thereafter, on October 17, 2011, the Board issued Provisional Amendments to the Universal Service Bylaws and, on October 20, 2011, the Commonwealth Governor confirmed that the public interest required that the Provisional Amendments to the Universal Service Bylaws had immediate effect, given the high risk of illegal erosion of public funds through the Universal Service Funds of Puerto Rico.

On December 16, 2011, the Puerto Rico Court Appeals dismissed the consolidated cases, holding that the Board’s actions were proper because of the Governor’s emergency declaration and that, given the risk of the illegal attrition of public funds, the Board had ample authority to issue and implement the regulations established. The same court later dismissed another challenge, brought by the incumbent carrier in Puerto Rico, PRTC, which challenged the Board’s requirement that the ETCs keep records for six years, on the basis that the Board acted within its authority to require this information.

In January 2012, after the court rejected the last of the legal challenges, the Board advised the ETCs that it would begin fining them, as allowed under Law 213, because they: (a) had not sent letters to their ineligible Lifeline customers; (b) were not submitting data in the format requested by the Board; and (c) were not submitting timely reports to the Board. The

²³ 3 L.P.R.A. § 2101 *et seq*

second omission was particularly troubling because the data being submitted by the ETCs was being used by the Board to determine additional ineligible recipients.²⁴

On February 17, 2012, the Board met with representatives of most of the ETCs, including TracFone. Each of the other ETCs, including Sprint, PRTC/Claro, AT&T, OpenMobile and T-Mobile (but not TracFone), and the Board agreed that:

- the ETCs would send letters to their ineligible customers;
- the ETCs would submit the required reports to the Board, in the format required by the Board, on the deadlines set by the Board;
- the ETCs would follow the other requirements of the Board's regulation;
- the Board would hold any fines in abeyance until April 2012 and, if the ETCs complied with terms of the agreement, the Board would begin releasing Lifeline funds.²⁵

The Board also determined, at the February 17 meeting, to reduce the amount of time an ineligible subscriber was barred from receiving funds from 12 months to four months.²⁶

Thereafter, the ETCs sent their ineligible customers letters explaining the ongoing process and their right to seek immediate review at the Board. While most of the ETCs used language prepared and ordered by the Board, so that all customers would be uniformly and properly advised, TracFone inserted its own language that complained about the Board's process.

²⁴ The Commission's February 6, 2012 Lifeline Reform Order noted the importance of similar information: "[t]he database cannot serve its intended purpose unless ETCs (or states, where enrollment is performed by a state agency or third party) populate the database with the information necessary to detect duplicate support." *Lifeline Reform and Modernization et al.*, WC Dkt. No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012), at ¶ 184. *See also id.* at ¶ 219 ("we must take steps now to reduce the amount of waste, fraud and abuse in these programs, and that necessarily includes the creation of a database to identify and eliminate duplicate subscriptions").

²⁵ Exhibit B.

²⁶ *Id.*

Now, TracFone has filed a petition with the Commission. In it, TracFone complains that the Board has refused TracFone's suggestion that it and the Board request the Commission to direct USAC to implement the Interim Duplicate Resolution Process ("IDRP") for Puerto Rico.²⁷ TracFone also complains that the Board's process has the potential to deprive residents of any benefits.²⁸

III. THE BOARD'S PROCESS IS ENTIRELY CONSISTENT WITH THE POLICIES AND RULES OF THE COMMISSION'S LIFELINE REFORM ORDER

TracFone makes three arguments against the Board's ongoing process to eliminate fraud, waste and abuse in the Lifeline program: (1) the Board should forgo its own ongoing process and instead adopt the IDRP; (2) the Board's process has the potential to leave residents without any service; and (3) the Board has not conformed with the opt-out certification process contained in the Lifeline Reform Order. These arguments are factually wrong, legally flawed and reflect a fundamental misunderstanding of the Board's process.

First, nothing in the Commission's Lifeline Reform Order requires the Board to adopt the IDRP. In fact, in that very same document, the Commission explained that states have freedom and flexibility to oversee the Lifeline program: "[w]ithin the framework established by the 1996 Act and the *Universal Service First Report and Order*, each state administers its own program, which has provided the states the freedom to experiment and develop new ways of making the

²⁷ *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service*, Emergency Petition for Declaratory Ruling and Interim Relief, WC Docket No. 11-42 *et al* (Feb. 22, 2012), at 4.

²⁸ TracFone repeatedly states that the residents will lose benefits for at least one year. TracFone Petition at 3, 8. In a footnote, TracFone acknowledges that the Board, on February 17, 2012, agreed to reduce the period from 12 months to four months. *Id.* at 4 n.3. To be clear, the period of time is four months. And, as explained above, the Board is considering eliminating this completely.

program more effective and efficient.”²⁹ In that same document, the Commission made clear that states have the ability to take additional steps to regulate Lifeline:

State commissions may include additional qualifying eligibility criteria and impose additional certification requirements that they believe are necessary to ensure that ETCs are using support consistent with the statute and our implementing regulations, so long as those additional reporting requirements do not create burdens that thwart achievement of the objectives of our universal service policies and regulations, including those set forth in this Report and Order, or otherwise conflict with federal law.³⁰

Consistent with its authority under Commonwealth law, and within the framework set forth by the Commission, the Board is taking steps to reform the Lifeline program in Puerto Rico. Although the Commission’s Lifeline Reform Order explained how the IDR program had been successful, it *did not* mandate that this was the only process for eliminating waste and fraud. In fact, the Commission held exactly the opposite: “[a] number of states have or are about to move forward with their own systems for checking for duplicate Lifeline support. . . . We applaud the actions of these states and do not intend to inhibit the operation of these state efforts.”³¹

Accordingly, while TracFone argues that the Board’s process “is contrary to the statutory goals of the federal Universal Service policy as codified in the Communications Act, and is in disregard of pronouncements of policy and specific requirements established by the Commission

²⁹ *Lifeline Reform and Modernization et al.*, WC Dkt. No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012), at ¶ 19 (emphasis added).

³⁰ *Id.* at ¶ 61.

³¹ *Id.* at ¶ 221.

and set forth in the Lifeline Reform Order,³² this statement is demonstrably incorrect. The Board's process is entirely consistent with – and fully supported by – the Lifeline Reform Order.

Recognizing this, TracFone resorts to arguing that the Board should have accepted its suggestion to utilize the IDR program. But, as explained above, nothing in the Lifeline Reform Order required the Board to use the IDR process; in fact, that order contemplated exactly the opposite. TracFone cannot dictate what process the Board should use to eliminate fraud, waste and abuse in the Lifeline Program.

Second, TracFone argues that the Board's process has the potential to leave residents without service, in violation of the Lifeline Reform Order. TracFone's argument ignores that the Board has already taken steps to mitigate against any loss of service. As explained above, while the Board could have barred a recipient who is found to have received improper benefits from receiving benefits ever again,³³ the Board reduced this period from a lifetime ban to one year in its interim regulations. After consultation with the ETC carriers in February 2012, the Board reduced the period again to four months.³⁴ Finally, on March 7, 2012, the Board determined that a customer who had been receiving multiple benefits could remain with the service to which the subsidy was first applied.³⁵

Furthermore, any person who receives notice of de-enrollment of multiple benefits can appeal that decision at the Board. Indeed, the Board's appeal process in this regard, which was contained in its interim rules first promulgated in 2011, are no different from the process

³² *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service, Emergency Petition for Declaratory Ruling and Interim Relief*, WC Docket No. 11-42 *et al* (Feb. 22, 2012), at 4-5.

³³ See 27 L.P.R.A. § 269e(11)(3) (affirming, “under penalty of prejudice and permanent ineligibility” that he/she is not receiving an improper benefit).

³⁴ Exhibit B.

³⁵ Exhibit C.

contained in the Commission’s February 2012 Lifeline Reform Order. There, the Commission codified a rule “limiting Lifeline support to a single subscription per household,” but, “recognizing that there are instances where multiple households (*i.e.*, families) reside at the same address,” it “implement[ed] procedures to enable applicants in such circumstances to demonstrate at enrollment that other Lifeline recipients residing at the same address are a separate household.”³⁶ To date, hundreds of individuals have filed appeals at the Board.

As a result, TracFone’s concern for the residents of Puerto Rico is a complete distraction. It is likely that no resident will lose his/her access to Lifeline benefits, even if he/she has been receiving multiple benefits in violation of existing law because of the Board’s appeal process and the March 7, 2012 Resolution and Order.

Finally, TracFone argues that the Board has not complied with the opt-out process described by the Commission at paragraph 221 of the Lifeline Reform Order. This argument does not merit an extended response. In paragraph 221, the Commission explained that states could opt-out of the filing and other requirements of the Lifeline Reform Order if they certified that their own state process was sufficiently comprehensive:

We allow states to opt-out of the duplicates database requirements outlined in this Order if they certify one time to the Commission that they have a comprehensive system in place to check for duplicative federal Lifeline support that is as at least as robust as the processes adopted by the Commission and that covers all ETCs operating in the state and their subscribers. Such certification must itemize with particularity each functionality of the state system that corresponds to the federal rule we adopt today and must be approved by the Bureau. States wishing to take advantage of this process must submit their one time certification within six months of the effective date of this Order. If the Bureau does not act to deny the certification within 90 days of being filed, it will be granted automatically. We do not require ETCs operating in the states which have exercised their opt-out rights and whose

³⁶ *Id.* at ¶ 69.

certification has been approved by the Bureau to comply with the obligations placed on ETCs herein with respect to the duplicates database.³⁷

The Commission's opt-out provision was designed to excuse states from the otherwise-applicable obligations of the Lifeline Reform Order. Nothing in the Order requires a state to seek permission to employ its own process if that state is not opting out of the Commission's process.

Furthermore, the opt-out/review process was established so that the Commission could ensure that the state process was "at least as robust as the processes adopted by the Commission."³⁸ Because the Commission was setting a "floor," in the Lifeline Reform Order, it wanted to make sure that the states were meeting these minimum requirements. TracFone has not shown that the Board's process is not as robust as that adopted by the Commission, or that it is deficient in some way. Rather, it appears only to be attempting to erect any barrier possible to preserve its current economic model. The Commission should reject this invitation.³⁹

IV. CONCLUSION

There is no countervailing benefit to waste, fraud and abuse. No one wins when a person is able to obtain multiple benefits (other than the person and, perhaps, the ETC), while the losers are many, and include the fund, other potential recipients, contributors to the fund, and all consumers. Consistent with the twin goals of the Lifeline Reform Order, the Board has been taking steps to weed out abuse, waste and fraud, while preserving the ability of its deserving residents to continue to receive benefits. TracFone's petition provides no basis to stop the

³⁷ *Id.* at ¶ 221.

³⁸ *Id.*

³⁹ Notably, the Board has six months from the effective date of the Lifeline Reform Order to submit the ¶ 221 certification. Nothing in that Order prevents the Board from utilizing its own pre-existing process in the interim.

Board's progress. Given the Commission's recognition that "[a] number of states have or are about to move forward with their own systems for checking for duplicate Lifeline support" and that "[w]e applaud the actions of these states and do not intend to inhibit the operation of these state efforts,"⁴⁰ TracFone's petition should be denied.

Respectfully submitted,

/s/Robert F. Reklaitis
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March 9, 2012

***Counsel for The Telecommunications
Regulatory Board of Puerto Rico***

⁴⁰ *Id.* at ¶ 221.

Exhibit A

[Seal that reads] "DEPARTMENT OF STATE - PUERTO RICO"

*Government of Puerto Rico
State Department
Assistant Secretary for Services
San Juan, Puerto Rico.*

October 26th, 2011

Sandra E. Torres Lopez, Lawyer.
President
Telecommunication Regulatory Board
500 Roberto H. Todd Avenue
Parada 18, Santurce
San Juan, Puerto Rico 00907-3941

[On the right there is a seal that reads]
"PUERTO RICO TELECOMMUNICATION
REGULATORY BOARD
OCTOBER 20TH, 2011
SECRETARY'S OFFICE"

Dear Mrs. Torres:

*We inform you that on **October 21st, 2001**, pursuant to the provisions of Law Number 170 from August 12th, 1988, amended accordingly; the following regulations were admitted in this Department:*

Number: 8903 Provisional Amendments to the Regulations on Universal Service

According to Law Number 149 from December 12th, 2005, the State Department will admit a copy in the Legislative Library. We are attaching a copy of the numerated regulation.

Sincerely,

[Signature]

*Eduardo Arosemena Muñoz
Assistant Secretary for Services*

Enclosures

**ASSOCIATED FREE STATE OF PUERTO RICO
PUERTO RICO TELECOMMUNICATION REGULATORY BOARD**

STATE DEPARTMENT

Number: 8093

Date: October 21st, 2011

Approved: Honorable Kenneth D. McClintock

State Secretary

[Signature]

By: Eduardo Arosemena Muñoz

Assistant Secretary for Services

[Seal that reads] **“PUERTO RICO TELECOMMUNICATION REGULATORY BOARD-
1996”**

PROVISIONAL AMENDMENTS TO THE REGULATIONS ON UNIVERSAL SERVICE

October 17th, 2011

**ASSOCIATED FREE STATE OF PUERTO RICO
PUERTO RICO TELECOMMUNICATION REGULATORY BOARD**

PROVISIONAL AMENDMENTS TO THE REGULATIONS ON UNIVERSAL SERVICE

14. Programs for Low-Income Consumers

All ETCs must make available to all qualifying low-income consumers in Puerto Rico, the following services that receive subsidies from the Universal Service:

A) Guaranteed Access Program (*Lifeline*):

- 1) Provides monthly discounts per line, over the cost of basic telephone service rent, to all users who qualify. In addition to the amount provided by the *Federal Universal Service Fund*, the *Puerto Rico Universal Service Fund* provides the monthly amount of three dollars and fifty cents (USD 3.50) to cover part of the cost for the local basic service rent.
- 2) The subsidy provided by the *Federal Universal Service Fund*, as well as the subsidy from the *Puerto Rico Universal Service Fund*, under this program will apply exclusively to only one (1) wired residential telephone line or to only one (1) wireless family unit service, at the customer's discretion.
- 3) The total subsidy will be offered to the user by the ETC, through the corresponding credit on the user's monthly bill.
- 4) The Board will be able to review the quantity provided by the *Lifeline* program. If it is determined that it is necessary to modify the contribution, it will be established and notified through *Administrative Order* to such effects, and according to what is established in these Regulations.

B) *LinkUp* Program:

- 1) Provides a discount to the user on the telephone service installation cost, equal to half of the ETC installation cost, or thirty dollars (\$30.00), whichever is less, and a deferred payment plan option for the remaining charges, under which the user does not pay interest, for a period no greater than one (1) year over the first two hundred (\$200.00) dollars. The subsidy provided by this service, to the validity date of these Regulations, comes from the *Federal Universal Service Fund*.

14.1 Eligibility criteria for users of the *Lifeline* Program

The user's eligibility to receive the subsidy will depend on the following criteria:

A. Eligibility by income:

- 1) Requires that the user's income be according to the income criteria adopted by this Board, through *Administrative Order*, valid on the date of the request for qualification.
- 2) The user must certify his Family Unit's annual income when applying for this benefit, using any of the three methods: state or federal payroll; payment check stubs for three (3) consecutive months, during a same year; Social Security benefits statement; Veterans Administration benefits statement; retirement or pension benefits statement; Unemployment or State Insurance Fund benefits statement; divorce decree or child support resolution. The applicant will have to certify in writing, under penalty of perjury, that the documentation submitted reflects the accuracy of his Family Unit income.

B. Eligibility through assistance programs:

- 1) The user must prove that he has been qualified to receive assistance from any of the following programs acknowledged by the CFC: *Medicaid*; Nutritional Assistance Program (PAN); Supplemental Security Income, Federal Housing Assistance Program (Section 8); Low-Income Homes Energy Assistance Program for; National Free School Lunch Program; Temporary Assistance Program for Needy Families, and any other that the CFC or this Board adopt.

C. Physical Address

Everyone must provide their physical address to be able to qualify for the *Lifeline* benefit, regardless of the method used to qualify.

D. Verification

The Board will be able to verify, through random audits or other appropriate mechanisms, the application and initially submitted documents, and those required during the annual re-certification process for subscribed users, under the listed programs in this section, to ensure compliance with the established criteria to receive subsidies.

14.2 Eligibility criteria for users of the *Link-Up* Program

- a) Eligibility criteria for the *Link-up* program are the same as the ones used for the *Lifeline* program.
- b) The telephone line installation subsidy under the *Link-up* program will apply exclusively to one (1) wired residential telephone line or its equivalent in the wireless service per family unit which complies with eligibility criteria.

14.3 Penalties:

Any citizen who tries to profit from the *Lifeline* program through false certifications or similar fraud or who obtains the *Lifeline* subsidy for more than one (1) wired or wireless telephone line per family unit, may be penalized with temporal or permanent ineligibility for the program and may be subject to an administrative fine of up to one thousand dollars (USD 1,000). Furthermore, any ETC who acts in a negligent way during the subscription procedures to the *Lifeline* program or who includes non-eligible customers to the program or violates any other provision of Section 14 herein, may be penalized pursuant Section 13 of these Regulations.

In both cases, the Board may also impose any other penalty they consider applicable during a proceeding to prove cause.

14.4 Creation of a centralized database.

The Board may decide to create a uniform database, which will be filled with the information provided by the ETCs and which will be updated monthly. Such database will be a control mechanism to identify existing duplicities and to avoid *Lifeline* benefit duplicity in the future, especially duplicity among ETCs.

14.5 Control Code

Every ETC will continue with its initial procedure of the *Lifeline* program beneficiary qualification. Nonetheless, every application to obtain such subsidy shall require a duplicity checking, through a control code provided by the Board before granting the benefit. Such control code will be provided simultaneously with its checking in the centralized database. Validation shall depend on the fact that during monthly reports the same person or family unit is not found to be receiving the benefit.

The following situations shall be exempted from obtaining a control code:

- a) Existing beneficiary who has changed physical address.
- b) Existing beneficiary in re-certification process.
- c) Existing beneficiary in re-certification process who has changed physical address.

The Board shall set forth the procedure for control code assignation for pre-existing beneficiaries through an *Administrative Order*.

14.6 Conditions of the *Lifeline* program subsidy

- a) Services included in the *Lifeline* program are the ones described in Section 5.1 of these Regulations.
- b) The *Lifeline* program subsidies shall be prospective, as long as eligibility criteria are met.

14.7 ETCs' obligations for *Lifeline* service

- a) Every ETC shall submit its *Lifeline* program rates before the Board.
- b) ETCs shall not request any deposit from users who take part in the program when they request for the long distance services blocking. If the blocking service of long distance calls is not available, the telecommunications company may request for a deposit.
- c) ETC shall not disconnect telephone services of the *Lifeline* program users due to lack of payment of their long distance calls pursuant to Section 14.13 of these Regulations.
- d) Every ETC shall use clear and simple language to inform every potential beneficiary of the *Lifeline* program at the sales point that such program is available for only one wired or wireless service per family unit.
- e) In order to qualify for the *Lifeline* program payment, ETCs shall obtain the subscriber's signature of a document certifying qualification to receive the *Lifeline* subsidy pursuant to Section 14.1 of these Regulations, subject to perjury and temporal or permanent ineligibility. The subscriber shall state if he qualifies due to income or due to compliance with any of the programs stated therein and shall state which specific program he qualifies for. He shall also certify that neither he nor any other member of his family unit is receiving the *Lifeline* subsidy benefit he is applying for. Within the same document, the subscriber shall commit to notify the company if his participation in the program(s) ceases. Initially and annually the subscriber shall submit evidence which proves his qualification to receive the subsidy of *Lifeline*, either by eligibility over income or by assistance programs, set forth in section 14.1B. If this evidence is not submitted, the ETC shall notify the subscriber its non-compliance with such requirement, providing a period of sixty (60) days to submit evidence of eligibility. If such evidence is not received, the ETC will have the subscriber's participation terminated.
- f) ETCs must promote the availability of *Lifeline* and *Link-Up* services through mechanisms of advertising that reasonably ensure the promotion to reach those

individuals who may qualify for them. This obligation will be permanent and will be executed in coordination with this Board and in accordance with section 9.2 of these Regulations. ETCs will include a brief and explanatory promotion on the availability and scope of the *Lifeline* and *LinkUp* programs in their monthly bills. This promotion must be approved by the Board.

- g) ETCs will keep records which demonstrate the compliance with the requirements of the *Lifeline* program, including those relating to the requested disbursement to the Fund, for a period of six (6) years, and submit them to the Board or the Administrator upon request.

14.8. Requirements for the automatic registration of PAN beneficiaries

- a) ETCs must implement of Automatic Registration Program to the *Lifeline* program administered by the *Socio-economic Development Management of the Family Department of the Associated Free State of Puerto Rico*, for all the telephone service users who are beneficiaries of the Nutrition Assistance Program (PAN, for its acronyms in Spanish).
- b) ETCs will provide, for the prior approval of the Board, the auto-certification sheet which the customer will have available for the automatic registration in the *Lifeline* program, as well as the drafts of any notice, letter or publication intended to circulate to their customers, the information about the automatic subscription to the *Lifeline* program for PAN beneficiaries.
- c) ETCs will provide customers recourse to PAN the auto-certification sheet approved by the Telecommunication Regulatory Board. This sheet will provide the customer the option to be included or excluded from the automatic registration. If the customer requests to be automatically registered in the *Lifeline* program, the user shall certify, under penalty of perjury and other temporary or permanent ineligibility, that neither he or she, or any resident of his/her Family Unit receives the subsidy in another wired, wireless phone, or any other technology that may arise in the future, in compliance with the laws and regulations applicable to Universal Service programs.
- d) The customer shall undertake to notify the company in the event his participation ceases in such program. In addition, he shall annually submit evidence to show his participation therein.
- e) In accordance with Law Number 242 of October 9th, 2004, the ETCs must sign a confidentiality agreement with the *Family Department*, prior to the receipt of a record in electronic format of the eligible customers to the PAN program, ensuring that the

information provided is only submitted for purposes of the *Lifeline* service and will be used exclusively by individuals related to the implementation of this program.

- f) Once ETCs receive the PAN registration of beneficiaries from the *Family Department*, they will initiate the process of automatic registration for those users included therein, by using the sheet approved by the Board. In addition, ETCs will perform the automatic registration process of customers every month, as soon as they receive the registrations and cancellations upgrades of the new beneficiaries of the PAN provided by the *Family Department*.

In all cases of automatic -registration it is required to follow the step formulated in Section 14.5 of these Regulations.

- g) ETCs will identify those customers who have been cancelled from the registry through the upgrades of the monthly registrations and cancellations submitted by the *Family Department*. They shall immediately notify by mail to each customer, by a notice, that their subsidy of the *Lifeline* program will be discontinued after sixty (60) days of the date of the notice, unless the customer notifies the ETC of an error committed or shows evidence of being qualified through other eligibility criteria, as stipulated in these Regulations. If the customer has not submitted the confirmation of eligibility, the company will discontinue the subsidy under the *Lifeline* program to the end of the period of sixty (60) days and the billing will continue as to the applicable fees.

14.9 Rules and Procedures applicable to duplicates

- a) In case of duplication of the social insurance (same person) the Board will determine that it will be ineligible for one (1) year to receive the *Lifeline* benefits, as from the date notified by the Board. If after a year the person recurses again to the benefit and commits the same action, it will remain permanently ineligible to receive any *Lifeline* benefits. The Board will identify the duplicates and approve the notification to be sent by ETCs through a letter to its postal address of record, indicating their ineligibility status and their right to go to the Board and file a claim. This notification should be made within a period no longer than ten (10) working days, from the date of shipment.

The Board shall be responsible of sending the duplicate listings to the ETCs.

- b) The Board shall keep a database with the information of individuals whose actions resulted in their temporary and permanent ineligibility of the local *Lifeline* program.
- c) The Board determines that, in case of duplication in one same family unit, the oldest beneficiary will retain the subsidy. The Board shall identify the ineligible duplicate and the date of its ineligibility. The Board shall approve the notice to be sent to them by the respective ETC, through a letter to their postal address of record, indicating the termination of their benefit and their right to file a claim before the Board. This notification shall be made within a period no longer than ten (10) working days from date of shipment.
- The Board shall be responsible for sending the duplicate listings to ETCs.
- d) Every customer whose benefit has been terminated by the application of the rules on duplicates, shall be notified that it is allowed to present before the Board to review the determination, within a period no longer than twenty (20) days from the knowledge of the ineligibility. In addition, every customer whose application was rejected solely by reason of the failure to comply with Section 14.5 shall be notified that he may claim before the agency within the same period hereinabove.

14.10 *Lifeline* Service Reports

- a) The designated ETC companies shall keep the Board informed of the number of subscribers to *Lifeline* service, which shall be carried out in accordance with the *Administrative Orders* that this Board issues from time to time, in which the Board shall identify the content of the information to be submitted, its frequency, and any other details that the Board deems appropriate.

Provisionally, unless the Board modifies them by *Administrative Order*, the data requirements are:

- The list of beneficiaries of the program shall be submitted before the Board, using any of the following electronic means: CD or DVD.
- The list shall contain the information in text format delimited by ANSI “tabs” (“tab delimited”) and “encoding”
- The file name shall consist of the following data:
 1. number of ETC of the Board in format #####; followed by
 2. data period in format yyyy-mm (year and month); followed by

3. format version # #; followed by
4. the extension “.txt”

Example: 001520110901.txt

- When two companies or operations share the same ETC number, the Board shall assign a distinctive mark to differentiate the information contained.
- The order and name of the fields of information within the file **shall be with no exception** as follows:

<i>Field</i>	<i>Size</i>	<i>Type</i>
<i>Social Security</i>	<i>9</i>	<i>Char</i>
<i>Name</i>	<i>Up to 15</i>	<i>Char</i>
<i>First Last Name</i>	<i>Up to 15</i>	<i>Char</i>
<i>Second Last Name</i>	<i>Up to 15</i>	<i>Char</i>
<i>Address 1</i>	<i>Up to 70</i>	<i>Char</i>
<i>Address 2</i>	<i>Up to 70</i>	<i>Char</i>
<i>City/Town</i>	<i>Up to 20</i>	<i>Char</i>
<i>Zip Code</i>	<i>9 (no hyphen)</i>	<i>Char</i>
<i>Date of Subscription</i>	<i>8</i> <i>(Year/Month/Day)</i> <i>YYMMDD</i>	<i>Char</i>
<i>Control Code</i>	<i>9</i>	<i>Char</i>

The fields “*Address 1*”, “*Address 2*”; “*City/Town*” and “*Zip Code*” shall be exclusively the physical address of the beneficiary.

- b) The Board shall only accept a CD or DVD per company or operation. Also, the Board shall proceed to return the CD or DVD if it does not conform to the previous requirement.
- c) In addition, ETCs shall submit an annual report no later than March 31 every year, identifying the total number of customers subscribed in the *Lifeline* program the previous calendar year.
- d) The Board shall reject every incomplete or incorrect record, or those which do not meet the formatting requirements specified above, to ensure the reliability of the information that will populate the uniform database of the Board.
- e) The Board shall identify that beneficiary’s information which is incomplete, incorrect or does not comply with the format requirements specified above, and shall notify the respective ETC in order that this is obtained within a period that shall not exceed thirty (30) days from that

notification. In case the information is not remedied within that term, this customer's benefit shall be terminated immediately.

14.11 Date for submitting reports and data

Every ETC shall monthly submit, on or before the fifteenth day (15) of the following month, the following reports and data:

- 1) Report on number of subscribers to the *Lifeline Service (Lifeline Subscriber Report)*.
- 2) Service Payment Form (*Lifeline Payment Request*).
- 3) CD or DVD, as described in the previous Section.

These shall contain the same number of beneficiaries.

14.12 Disbursement of Universal Service Fund of Puerto Rico for the *Lifeline* program

- a) To obtain disbursement of the Fund, ETCs shall submit to the Administrator and the Board a certification indicating that the information and documents were obtained, as required in Section 14.7 e) of this Regulation, under penalty of perjury and the penalties provided in Section 13 herein.
- b) The certification referred to in the preceding paragraph shall be submitted twice (2) a year, on or before December 1st and on or before May 1st.
- c) In addition, ETCs shall monthly submit the *Lifeline Service Payment Form (Lifeline Payment Request)* with the required information about the subsidies granted and of which a refund was requested. Once approved by the Board, the Payment Form shall be submitted to the Administrator for the corresponding process.

14.13 Waiver of Restriction on Disconnection for Lack of Payment of Long Distance Calls

- a) On ETC request, the Board may grant a waiver of restriction on disconnection of *Lifeline* service because of lack of payment of long distance calls, if it is proved that:
 - 1) The ETC will incur substantial expenses to comply with this requirement;
 - 2) The ETC offers its subscribers the services of Control or Blocking of long distance calls, and
 - 3) The penetration of the telephone service for the designated service area, where the waiver is requested, is greater than sixty percent (60%).

- b) The grounds for the waiver request shall be certified annually by the ETC, in high spirits that it be renewed for an additional period of one (1) year.
- c) On ETC request, the Board may grant a limited waiver on the restriction on disconnection of the *Lifeline* service due to the lack of payment of long distance calls. The ETC shall prove that, at that time, it lacks the technical ability to provide the service of control or blocking of long distance calls. The limited waiver shall be in force until the company acquires the necessary equipment to be able to offer the services of control and blocking of long distance calls.
- d) The Board shall deliver its decision in relation to the waiver within a period of thirty (30) days from the date of submission of waiver request.

14.14 Validity

These regulations are adopted pursuant to Section 2.13 of the Uniform Administrative Procedure Act, Law Number 170 of August 12, 1988, as amended. It shall be effective immediately after the Governor of Puerto Rico certifies it in accordance.

This was agreed by the Board on October 17, 2011.

[Signature]

Sandra Torres Lopez

President

[Signature]

Gloria I. Escudero Morales

Associate Member

[Signature]

Nixyvette Santini Hernandez

Associate Member

Exhibit B

**ASSOCIATED FREE STATE OF PUERTO RICO
TELECOMMUNICATIONS REGULATORY BOARD
OF PUERTO RICO**

**UNIVERSAL SERVICE FUND
LIFELINE**

CASE No. JRT-2001-SU-0003

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RESOLUTION AND ORDER

This *Resolution and Order* sets out the agreements reached by the Telecommunications Regulatory Board of Puerto Rico (Board) and eligible telecommunications companies (CTEs), at a meeting held on February 17, 2012.

Background:

As it is well known to all CTEs, this Board has issued several orders related to the *Lifeline* program in Puerto Rico, so that we can meet our ministerial function of supervision and strengthening, creating measures against the loss, fraud and abuse of the resources arising from the *Universal Service Fund of Puerto Rico*.¹ This, after noticing a rapid rise from 2010 in the number of subscribers to the *Fund*, and after a thorough analysis of the reports submitted by the CTEs, which has revealed a widespread pattern of lack of information and/or compliance with the determined by the Board over time. This resulted in an alarming number of duplicate and tripled beneficiaries.²

The first *Resolution and Order* of January 27, 2011 began a process of control and audit of all CTEs, as set forth in Section 14.1 (c) of the *Universal Service Regulations*, Regulations 7795, to verify compliance with the application of initial eligibility requirements, the subsequent annual verification of the beneficiaries to *Lifeline* and *Link-Up*, and documents retention practices.³

¹ By Act No. 213 of September 12, 1996, as amended, 27 LPRA § 265 et seq (hereinafter, Act 213), was created the Telecommunications Regulatory Board of Puerto Rico (hereinafter Board) and was specifically commissioned regarding universal service to: 1) acknowledge the telecommunications service as one whose provision pursues a high public interest aim within a competitive market; 2) ensure the provision of universal service at a fair, reasonable and affordable prices for all citizens; 3) distribute equally among all telecommunications companies the obligations, responsibilities and charges attached to the development and preservation of the universal service; 4) establish specific, predictable and adequate mechanisms to preserve and develop the universal service; 5) provide access to telecommunications services reasonably comparable to those provided in urban areas, to consumers across the Island, including to low income people and those living in rural areas or where access to such services is expensive Keas making sure that these services are available throughout Puerto Rico, at fair and reasonable prices, 27 L.P.R.A. § 265.

² After a thorough analysis of the information, we realized that in some instances, two or three services have been registered under the same address or the same social security number. This irregularity in rendering and obtaining the grant has been named as duplicates and/or triplicates and, as a last resort, instance, what is being reflected is that ineligible people are being benefited due to fraud and possible negligence of the telecommunications companies, which have provided eligibility to persons against the Act and the applicable regulations.

³ Specifically, we decided to: (1) order an audit of all eligible telecommunications companies; (2) order the retention and preservation of documents relating to *Lifeline* and *Link Up*; (3) order the suspension of policies or practices or destruction or disposal of documents; (4) order that audited companies appoint a link person to attend to the audit; (5) order the notification of duplicate and tripled customers of the cessation of the grant; (6) order the retention of the *Universal Service Fund* refund from September to December 2010, until the correction of the payment for this period is determined; (7) order the compliance with the laws and regulations of the Board.

On July 13, 2011, we issued a second *Resolution and Order* concretizing already existing rules by virtue of our *Regulations 7795* and other orders of this Board, and taking other measures to achieve the stability of the *Universal Service Fund*. Among the measures adopted was the creation of a centralized database to be administered by the Board and requirements on reports, their content, format and date of delivery, designed to help minimize and resolve the alarming incidence of duplicate beneficiaries, which undermines the very stability of this public *Fund*.⁴

Several CTEs appeared before the Court of Appeals to challenge the validity of both resolutions.⁵ Understanding that the implementation of these rules and regulations is urgent, and pursuing the protection of public funds, the Board notified the Governor of Puerto Rico, Honorable Luis G. Fortuño Burset, of the emergency situation above, who certified the preceding on October 20, 2011, so that the *Provisional Amendments to Universal Service Regulations* had **immediate application** under Sec. 2.13 of LPAU, 3 L.P.R.A. § 2133.

So, on 16 December 2011, The Honorable Court of Appeals issued a ruling which dismissed all appeals of administrative review by deeming them academic, in light of the emergency certification of the Governor, and decreed that the *Provisional Amendments to Universal Service Regulations* (Regulation 8093) **had immediate application** under Sec. 2.13 of LPAU, 3 L.P.R.A. §2.133.

On January 24, 2012, we issued a third *Administrative Order and Resolution and Order* which:

- Warned the CTEs about their responsibility to file and/or file the reports in an orderly way, under Section 14.10 and 14.11 of the *Provisional Amendments to Universal Service Regulations*.
- Warned that failure to comply with the obligations to inform would entail administrative sanctions in accordance with Section 13 b) and c) of the *Universal Service Regulations, Regulations No. 7795* (Regulations 7795), among which are, without it being construed as a limitation: (i) revocation of certification to provide telecommunications services in Puerto Rico, (ii) revocation of the designation of eligibility, and (iii) **imposition of fines and daily penalties of up to twenty five thousand dollars per violation**, as provided in Article II-7 of Act No. 213 of September 12, 1996, as amended, 27 L.P.R.A. § 267f (b) (1)⁶. Such warning was also given in our orders of January 27, 2011 and July 13, 2011.

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⁴ These requirements applicable to CTEs reports were not new, for since 2001, the Board had adopted criteria, through various Orders, which were: Administrative Order of December 14, 2001, Resolution and Order of June 24, 2004, Resolution and Order of August 25, 2004, Administrative Order of December 14, 2004, Resolution and Order of February 3, 2005, Resolution and Order of April 6, 2005, Administrative Order of November 17, 2005, Resolution and Order of October 4, 2006 and Resolution and Order of September 22, 2010.

⁵ KLRA 2011-0776; KLRA 2011-0780; KLRA 2011-0900; KLRA 2011-0905; and KLRA 2011-0906.

⁶ Section 13 Sanctions, paragraph b) provides:

Among the actions that can lead to sanctions, without it being construed as a limitation, are the following: (i) failure to comply with the payment of the contribution to the Universal Service Fund; (ii) forgery of documents or the provision of false information when requesting the designation of eligibility or when submitting the information relating to the amount of the contribution to the Universal Service Fund, (iii) not providing information required by the Board or the Administrator concerning these Regulations; (iv) late or incomplete submission of reports or other expressly required information and (v) committing fraud against the Universal Service Fund and (vi) recovering contributions in excess of the amount paid or recovering late fees.

See also Act No. 242 of October 9, 2002 and Act No. 202 of December 14, 2007.

- Warned the CTEs that the Board would reject any incomplete or incorrect information relating to a beneficiary and that, from now on, any incomplete, poor or late submission will result in the impossibility of recovery the *Universal Service Fund*.
- Accordingly, in the said *Order* the CTEs were fined for noncompliance with reporting requirements. As regards the CTEs that had not submitted their report of December 2011 before the deadline of the Order, the Board imposed a fine of fifteen thousand dollars (\$ 15,000). However, they were given a grace period that ended on **Wednesday January 25, 2012, to submit the said report.** If not received within that period, the CTE would lose its right to claim reimbursement by December 2011; in that case, the process of reimbursement of the rest of the CTEs without their input would be conducted. The only CTE to which this fine was applied was T-Mobile.
- As for other CTEs that submitted incomplete or incorrect information, the Board imposed a fine of ten thousand dollars (\$ 10,000) and an additional penalty of one thousand dollars a day until the complete and/or corrected information was submitted, being the delivery deadline **Friday January 27, 2012.**
- Warned that in the future, in addition to similar or greater penalties for failure to comply with the obligation of timely and correct filing, the Board **will not hesitate to revoke the appointment of a company as eligible to receive money from the *Universal Service Fund*, or to decertify it to provide telecommunication services in Puerto Rico, if it obstinately determines to keep on failing to comply with report requirements.**

As a result of this last Order, CTEs: Puerto Rico Telephone Company, Inc, per se and h/n/c Claro; Tracfone per se and h/n/c Safelink; AT&T Mobility; Sprint; T-Mobile; Open Mobile; requested a meeting that took place on February 17th, 2012 on the Board premises. The Board's President, Sandra E. Torres and the Associated Member, Gloria Escudero Morales were present. After several hours of conversation, the parties reached the following agreements:

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- All CTEs shall send all letters to the beneficiaries duplicated by social security or by family unit, according to the Board's orders.
- The rule adopted on our Regulations 8903 shall be applied for the family unit.
- The Board shall vary the rule provided in Regulations 8093 for the social security duplicity, so that the individual cannot receive *Lifeline* program benefits for a period of four months.
- CTE Information and Technology Staff shall have individual meetings with BlueWave Consulting Inc. to ensure understanding the monthly report filing process of Regulations 8093. At the end, the CTEs will be given a certificate accrediting their participation.
- The CTEs shall commit to file their reports in time, in a complete and correct manner, in order to begin populating the state database. The Board shall observe the previous until April of 2012. By virtue of which, the Board shall suspend all imposed penalties from January 24th, 2012 to said date. The council will exercise its discretion to reconsider. The terms of appeal shall also be suspended until this date.
- The payments to the beneficiaries from the period of December 2011 onward will be routinely paid and processed, for those CTEs that file their reports on time in a complete and correct manner.
- The Board shall begin to make disbursements to the CTEs from the withhold money, beginning with the most recent months, until all withhold and truly owed money has been returned. To that end, a time period of approximately four to six months was estimated, if the CTEs cooperate and this process shall be worked on individually. The owed disbursement will be in those cases which are not in controversy (duplicated). The cases in controversy shall be evaluated later.
- The CTEs shall continue with their eligibility qualifying process until the verification application for existing beneficiaries proposed by the Board is implemented.
- The CTEs committed to implementing the aforementioned application, within the three following months starting on February 17th, 2012.
- Every CTE must request the customer's physical address. Otherwise, they shall have thirty (30) days, starting from the Board's notification date regarding the missing address, to obtain it.
- The CTEs committed to send the letters in a timely manner.

- The Board, in turn, committed to standardize and communicate the information to be provided to the beneficiaries who go to the Agency, for having received a service termination letter.

Discussion:

We understand that these agreements benefit both parties and are the result of conversations that will contribute with our auditing and control processes, in relation to the use of the *Lifeline* services funds.

By virtue of the previous, this Board RESOLVES and ORDERS:

THAT THE AGREEMENTS LISTED ABOVE BE RATIFIED.

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Having determined that the reconsideration recourse has been exhausted before the Telecommunication Regulatory Board of Puerto Rico, and according to the provisions of Section 4.2 of the Standardized Administrative Procedure Law (Law Number 170 from August 12th, 1988, as amended), an adversely affected party by the present Resolution and Order will be able to present a Revision Request before a competent Puerto Rico’s Appeals Court, within thirty (30) days, starting from the case date of the copy to be reconsidered of the notification of the final Resolution and Order issued by the Board. The party will notify about the presentation of the revision request to the Board and to all other parties within the time period to request such revision. The notification can be done by regular mail, provided that, if the case date of the copy to be reconsidered of the notification of the final Resolution and Order issued by the Board, is different from the mail deposit of such notification, the term of thirty (30) days to request judicial revision will be calculated starting from the mail deposit date.

NOTIFY the present RESOLUTION AND ORDER to the following companies:

Company	Name	Address
AT&T Mobility Puerto Rico, Inc.	Javier Vazquez	O'Neill & Borges American International Plaza 250 Muñoz Rivera Ave., Ste 800 San Juan, PR 009 18- 18 13
AT&T Mobility Puerto Rico, Inc.	Gladys Maldonado	Maldonado & Tor0 Consulting Group PO Box 6331 San Juan. PR 00911
AT&T Mobility Puerto Rico, Inc.	Ivonne Melendez	Maldonado & Tor0 Consulting Group PO Box 6331 San Juan. PR 00911
PR Wireless, Inc. d/b/a Open Mobile	Arnaldo Mignucci Giannoni	MIGNUCCI GIANNONI LAW OFFICES, PSC 1502 Martin Travieso St. San Juan, PR 009 18
Puerto Rico Telephone Company. Inc.	Francisco Silva	PO Box 360998 San Juan, PR 00936-0998
Puerto Rico Telephone Company. Inc. h/n/c Claro		
Puerto Rico Telephone	Carlos D. Ruiz	PO Box 360998

Company. Inc. Puerto Rico Telephone Company. Inc. h/n/c Claro		San Juan, PR 00936-0998
Puerto Rico Telephone Company. Inc.	Ricardo L. Ortiz Colon	Fiddler Gonzalez & Rodriguez,PSC PO Box 363507 San Juan. PR 00936-3507
SprintCom, Inc. d/b/a Sprint PCS	Miguel J. Rodriguez Marxuach	PO Box 16636 San Juan, PR 00908-6636
T-Mobile Puerto Rico, LLC	Liza M. Rios	654 Ave. Muñoz Rivera, Suite 2000 San Juan, PR 009 18
TracFone Wireless, Inc	Edwin Quiñones	Quiñones & Arbona, PSC Doral Bank Plaza 33 Calle Resolucion, Suite 701 San Juan. PR 00920
TracFone Wireless, Inc	Alejandro Figueroa	Quiñones & Arbona, PSC Doral Bank Plaza 33 Calle Resolucion, Suite 701 San Juan. PR 00920

The Board agreed so on March 7th, 2012.

[Signature]
Sandra Torres Lopez
President

[Signature]
Gloria I. Escudero Morales
Associated Member

[Signature]
Nixyvette Santini Hernandez
Associated Member

CERTIFICATION

I hereby CERTIFY that the present document is a true copy of the Resolution and Order approved by the board, on March 7th, 2012. I also CERTIFY that today, March 7th, 2012, I have submitted a copy of the present Resolution and Order to the indicated parties in the Notifying section, and I have proceeded to file the case of the aforementioned.

IN WITNESS WHEREOF, I sign the present document in San Juan, Puerto Rico, on March 7th, 2012.

[Signature]
CIORAH J. MONTES GILORMINI
Board Secretary

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Exhibit C

**ASSOCIATED FREE STATE OF PUERTO RICO
TELECOMMUNICATION REGULATORY BOARD
OF PUERTO RICO**

**IN RE:
UNIVERSAL SERVICE FUND
LIFELINE/LINKUP**

CASE No.: JRT-2001-SU-0003

RESOLUTION AND ORDER

By means of this *Resolution and Order*, we receive the rule applicable to the individuals identified as duplicated for reasons of their social security of Regulation Number 8093, *Provisional Amendments to the Regulations on Universal Service*, in abeyance), as a result of the preliminary findings encountered by this Board.

Background:

As known by all eligible telecommunication companies (CTEs), this Board has issued various orders, related to the *Lifeline* program in Puerto Rico, in order for us to be able to comply with our ministerial function of overseeing the *Universal Service Fund*, by creating measures against loss, fraud and abuse of the , resources originating from it¹ The foregoing, after noticing a dizzying ascent starting in 2010 in the number of subscribers of said *Fund*, and after a detailed analysis of the reports submitted by the CTEs, that revealed a general pattern of lack of information and/or compliance with the criteria determined by the Board, over time. This resulted in an alarming number of duplicated and triplicated beneficiaries.²²

We issued *Resolutions and Orders*, on January 27, 2011, on July 13, 2011³ and January 24, 2012. To understand that the implementation of these norms and regulations was of an urgent nature, and sought the protection of public funds, the Board notified the emergency situation explained in detail above to the Governor of Puerto Rico, Honorable Luis G. Fortuno Burset, who certified the above on October 20, 2011, so that the *Provisional Amendments to Regulations on Universal Service* (Regulation 8093) had **immediate application**, under Sec. 2.13 of LPAU, 3 L.P.R.A. § 2133.

As a result of the foregoing, in particular our latest Order of January 24, 2012, CTE's: Puerto Rico Telephone Company, Inc. on its own behalf and DBA Claro, Tracfone on its own behalf and DBA Safelink, AT&T Mobility, Sprint, T-Mobile, Open Mobile asked for a meeting with the Board, which took place, on February 17, 2012, at our facilities. The Chairman of this Board, Sandra E. Torres and the Associate Member Gloria Escudero Morale were presents. After several hours of conversation, the parties arrived at various agreements, these among the most important:

¹ Through Law No. 213 of September 12, 1996, as amended, 27 L.P.R.A. § 265 *et seq.* (Law 213) the Puerto Rico Telecommunication Regulatory Board was created (Board) and it was expressly given the assignment, in regard to the universal service, of: 1) recognizing the telecommunication service as one whose performance pursues a purpose of high public interest, within a competitive market; 2) ensuring that a universal service it provided at a just, reasonable and affordable by all citizens, 3) dividing equitably among all telecommunication companies obligations, responsibilities and charges attributed to the development and preservation of universal service; 4) establishing specific support mechanisms , predictable and sufficient for preserving and developing universal service; 5) giving access to telecommunication services, reasonably comparable to those provided in urban areas to the consumers throughout the Island, including those with low income and who reside in rural areas or in areas in which access to such services is costly, verifying that said services are available in all of Puerto Rico, at just and reasonable process. 27 L.P.R.A. § 265.

² Upon a detailed observation of the information, we noticed that in some instances two or three services have been registered under the same address or the same number of social security. This irregularity in the performance and obtaining of the subsidy, was designated as duplicates and/or triplicates and, as a last resort, which shows that ineligible persons are benefiting , because of fraud and possible negligence on the part of the telecommunication companies, that provided eligibility to persons against the Law and applicable regulations.

³ Several CTEs appeared before the Court of Appeals to challenge the validity of both resolutions in cases KLRA 2011-0776; KLRA 2011-0780; KLRA 2011-0900; KLRA 2011- 0905; and KLRA 2011-0906. On December 16, 2011, the Honorable Court of Appeals issued a ruling in which it dismissed all appeals for administrative review, deeming them academic, in view of the Governor's emergency certification, and decreed that the Provisional Amendments to the Regulation on Universal Service (Regulation 8093) were applicable immediately under Sec. 2.13 of LPAU, 3 L.P.R.A. § 2133.

- all CTEs will send all cards to the duplicated beneficiaries for social security or family unit, as ordered by the Board since January of 2011 and
- the Board will change the rules provided in Regulation 8093 for duplication of social security, so that a person may not receive benefits from the *Lifeline* program for a period of four months.⁴

Discussion:

This Board has received thousands of calls and personal visits from consumers, since mailing the cards⁵ to the duplicated beneficiaries for social security or family unit, announcing the termination of their *Lifeline* benefits.

The forms they will fill out as part of the summary claims proceeding, began to illustrate patterns of conduct of the CTEs, that are certainly alarming, fraudulent and possibly criminal, which, as we mentioned in our *Resolution and Order* of January 27 of 2011, will be referred to the appropriate state and federal authorities. Moreover, they will be the subject of separate *Orders to Show Cause*, which will be served in due time, as the CTEs are exposed to the provisions of Section 13 c) of Regulation Number 7795, such as, but not limited to: (i) revocation of certification for rendering telecommunication services in Puerto Rico; (ii) revocation of the designation of eligibility; and (iii) imposition of daily fines and penalties of up to twenty-five thousand dollars per violation, in accordance with the provisions of Article II-7 of Law No. 213 of September 12, 1996, as amended, 27 L.P.R.A. § 267f (b) (1).

Likewise, we begin to detect that the majority of consumers have allegedly been misled and even deceived, even when they divulged that they had already the subsidy; except for those who have carried the service or are not customers of a CTE, that continues to report them to this Board.

Finally, as we deem it appropriate not to penalize consumers and, therefore, we resolved to leave pending our rule applicable to duplicates for social security of January 2012, in such a way that the customer can remain with the service to which the subsidy was first applied, if so desired. Therefore, in order for all consumers to be under the same conditions, this Board will allow the beneficiaries who already lost their subsidy in March of 2012 (customer base of December of 2011), may request it again. The Board will be the only entity authorized to announce said resolution to the consumers, by the means it deems appropriate.

Finally, this Board resolves that from now on, any CTE that has inter-company duplications will be exposed to an automatic fine of ten thousand (\$10,000) dollars per duplication, since the CTEs must obtain a control code designation, to be assigned on the basis of existing customer data.

In view of the foregoing, this Board RESOLVES and ORDERS:

IT IS RESOLVED TO LEAVE PENDING OUR RULE APPLICABLE TO DUPLICATES FOR SOCIAL SECURITY OF JANUARY OF 2012, IN SUCH A WAY THAT THE CUSTOMER CAN REMAIN WITH THE SERVICE TO WHICH THE SUBSIDY WAS FIRST APPLIED, IF SO DESIRED.

LIKewise, IT IS DETERMINED THAT THE BENEFICIARIES WHO ALREADY LOST THEIR SUBSIDY IN MARCH OF 2012 CAN

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⁴ The Regulations provide that the person may not receive the benefit for one year.

⁵ The language of both cards was written by this Board and sent to the CTEs, in order for the same language to be used uniformly by all companies, so that this Board will ensure that customers receive information correctly and at the same conditions.

MAY REQUEST IT AGAIN, BUT THE BOARD WILL BE THE ONLY ENTITY AUTHORIZED TO ANNOUNCE SAID RESOLUTION TO THE CONSUMERS, BY THE MEANS IT DEEMS APPROPRIATE.

IT IS ESTABLISHED THAT FROM NOW ON, ANY CTE THAT HAS INTER-COMPANY DUPLICATES WILL BE EXPOSED TO AN AUTOMATIC FINE OF TEN THOUSAND (\$10,000) DOLLARS PER DUPLICATION.

IT IS ORDERED THAT THE CTES MUST OBTAIN A CONTROL CODE DESIGNATION, TO BE ASSIGNED ON THE BASIS OF EXISTING CUSTOMER DATA.

Stipulating that having exhausted the remedy of reconsideration before the Telecommunication Regulatory Board of Puerto Rico, and in compliance with the provisions of Section 4.2 of the Uniform Administrative Procedure Act (Law No. 170 of August 12, 1988, as amended), a party adversely affected by this Resolution and Order may submit a Request for Review before the Court of Appeals of Puerto Rico having jurisdiction, within a period of thirty (30) days, counted starting from the date the copy of service of the final Resolution and Order for reconsideration issued by the Board is entered on the record. The party will serve the submission of the request for review to the Board and to all parties within the period for requesting said review. Service may be carried out by mail. Stipulating that if the date of entering on the record a copy of service of the final order or resolution for the Board's reconsideration is entered on the record, is different from the date of mailing said service, the period of thirty (30) days for requesting judicial review will be calculated starting on the date of mailing.

SERVE this Resolution and Order to the eligible telecommunication companies: Puerto Rico Telephone Company, Inc, Ledo. Walter Arroyo, PO Box 360998, San Juan, PR 00936-0998; T-Mobile Puerto Rico LLC, Leda. Jeanne Habib, 654 Ave. Muñoz Rivera, Suite 2000, San Juan, PR 00918; SprintCom, Inc. h/n/c Sprint PCS, Ledo. Miguel J. Rodríguez Marxuach; PO Box 16636, San Juan, PR 00908-6636; AT&T Mobility Puerto Rico, Inc, Leda. Rebecca Guerríos, PO Box 192830, San Juan, PR 00919-2830; PR Wireless, Inc. h/n/c Open Mobile, Ledo. Javier Lamoso, PO Box 71569, San Juan, PR 00936-8669; WorldNet Telecommunications, Inc, Leda. Vanessa Santo Domingo Cruz, PO Box 3365, Guaynabo, PR 00970-3365; Sr. David Bogaty, Centro Internacional de Mercadeo, 90 Carretera 165, Suite 201, Guaynabo, PR 00968-8059; Tracfone Wireless, Inc, Ledo. Edwin Quiñones, PO Box 19417, San Juan, PR 00910; Telóte h/n/c Life Wireless, Ledo. Roberto L. Prats Palerm, American Airlines Building, 1509 López Landrón, 10 Floor, San Juan, PR 00911; Absolute Mobile, Inc, Sr. Christopher Peltier, PO Box 830010, Ocala, FL 34483-0010; TerraCom, Inc, Leda. Jessica Hernández Sierra, Goldman Antonetti & Córdova, PSC, PO Box 70364, San Juan, PR 00936-8364

Thus agreed upon by the Board, March 7, 2012.

CERTIFICATION

I HEREBY CERTIFY that this copy is the true and exact copy of the Resolution and Order approved by the Board, on March 7, 2012. I also CERTIFY that today, March 8, 2012, I delivered a copy of this Resolution and Order to the parties indicated in the order for service and proceeded with entering it on the record.

IN WITNESS WHEREOF I sign this document in San Juan, Puerto Rico, today, March 7, 2012

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Ciorah J. MONTES GILORMINI

Board Secretary