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September 20, 2012

VIA ECFS

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

Re: Affordable Phone Services, Inc. Amended Petition for Waiver; WC
Docket Nos. 11-42, 12-23, 03-109 and CC Docket No. 96-45

Dear Ms. Dortch:

On September 7, 2012, Affordable Phone Services, Inc. ("Affordable") submitted a petition for waiver of Section 54.410(f) of the Commission's rules requiring annual re-certification of Affordable's wireline Lifeline customers. Affordable hereby submits an amended petition to clarify that fact that Affordable will discontinue Lifeline service to all wireline customers served using AT&T as the underlying provider and seeks waiver of the re-certification requirement for those customers.

Please feel free to contact the undersigned with any questions.

Respectfully submitted,



John J. Heitmann
Joshua T. Guyan

Counsel to Affordable Phone Services, Inc.

cc: Kim Scardino
Divya Shenoy
Garnet Hanly
Alex Minard

**Before the
Federal Communications Commission
Washington, D.C. 20554**

_____)	
In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Lifeline and Link Up)	WC Docket No. 03-109
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Advancing Broadband Availability Through Digital Literacy Training)	WC Docket No. 12-23
_____)	

AMENDED PETITION FOR WAIVER OF AFFORDABLE PHONE SERVICES, INC.

Affordable Phone Services, Inc. (“Affordable”) hereby respectfully requests, pursuant to Section 1.3 of the Federal Communications Commission’s (“Commission’s”) rules, a waiver of Section 54.410(f) of the Commission’s rules requiring annual re-certification of Affordable’s wireline Lifeline customers. Affordable will discontinue Lifeline service to all wireline customers served using AT&T as the underlying provider on or before December 31, 2012. Therefore, requiring Affordable to re-certify its wireline Lifeline customers by the end of 2012 would be confusing to those customers and would not serve the purpose of the rule because it is unnecessary to prevent waste, fraud and abuse in the Lifeline program.

I. BACKGROUND

Section 54.410(f) of the Commission’s rules requires that ETCs “annually re-certify all subscribers” by querying an appropriate database or obtaining a certification that

meets the requirements of Section 54.410.¹ In the Lifeline Reform Order, the Commission specified that for 2012 ETCs “must re-certify the eligibility of their Lifeline subscriber base as of June 1, 2012 by the end of 2012 and report the results to USAC by January 31, 2013.”²

Subscribers that cannot be re-certified must be de-enrolled according to the process established in Section 54.405(e)(4) of the Commission’s rules.³

Affordable provided residential telephone service to 5,912 customers in Alabama, Florida, Kentucky, North Carolina and South Carolina as of July, 2012 by reselling service from AT&T. However, Affordable is discontinuing its wireline services to its customers served using AT&T as the underlying service provider, including its wireline Lifeline services, by the end of 2012. Affordable will be providing written discontinuance notices to each customer pursuant to Commission and state requirements and customers can transition to alternate providers.

Because there are no available eligibility databases, Affordable would be required to obtain a certification from all of its wireline Lifeline customers by the end of 2012 consistent with Section 54.410(d) of the Commission’s rules. The purpose of this rule is to “verify the ongoing eligibility of [each ETC’s] Lifeline subscriber base.”⁴ As demonstrated further below, the purpose of the recertification requirement is not served by requiring Affordable to recertify the ongoing eligibility of Lifeline customers whose Lifeline service is in the process of being discontinued.

¹ See 47 C.F.R. § 54.410(f).

² *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report And Order and Further Notice Of Proposed Rulemaking, FCC 12-11, ¶ 130 (Feb. 6, 2012) (“Lifeline Reform Order”).

³ See 47 C.F.R. § 54.410(f)(5).

⁴ *Id.*, ¶ 129.

II. REQUEST FOR WAIVER OF SECTION 54.410(F)

Pursuant to Section 1.3 of the Commission's rules, the Commission may grant requests for waiver of the Commission's rules for good cause shown.⁵ Good cause is evident from the fact that enforcement of the recertification requirement in Section 54.410(f) will not serve the purpose of the rule to ensure the ongoing eligibility of customers for Lifeline service and would cause substantial and legitimate customer confusion.

First, enforcing the re-certification requirement for Affordable's wireline Lifeline customers would not serve the purpose of the rule. Affordable will cease providing Lifeline service to its wireline customers served using AT&T as the underlying provider by the end of 2012. All customers will be required to transition to a different provider for residential Lifeline service and that provider will be required to verify the eligibility of each new Lifeline customer pursuant to Section 54.410(d) of the Commission's rules, including by viewing documentation of eligibility (which is not required for re-certification). Therefore, no customers that are ineligible for Lifeline service will retain such service and no waste, fraud or abuse of the Lifeline program will result. In fact, because each customer's new Lifeline provider will be required to view proof of the customer's eligibility for Lifeline service, the certification process will actually be more stringent for the customers at issue.

Second, enforcing the re-certification requirement for Affordable's wireline Lifeline customers served using AT&T as the underlying provider would cause substantial and legitimate customer confusion. Each of Affordable's wireline Lifeline customers served using AT&T as the underlying provider will receive a written notice of service discontinuance from the Company at about 75 days prior to December 31, 2012, which will explain the discontinuance

⁵ See 47 C.F.R. § 1.3 ("Any provision of the rules may be waived by the Commission...on petition if good cause therefor is shown.").

process consistent with Commission and state requirements. If customers receive such a notice stating that Affordable will no longer be providing their Lifeline service and then receive a request to re-certify their eligibility to continue receiving Lifeline service from Affordable, they will be justifiably confused and possibly agitated.

Third, the number of customers affected by the requested waiver is low – only 5,912 as of July, 2012. Therefore, any cost savings to the Lifeline program from de-enrollment of non-responsive customers prior to December 31, 2012 would be *de minimis*. On the contrary, the customer confusion and administrative expenses would be material.

III. CONCLUSION

Affordable has presented the Commission herein with ample good cause to waive the 2012 Section 54.410(f) Lifeline eligibility re-certification requirement for Affordable's wireline Lifeline customers served using AT&T as the underlying provider who will all receive notices of service discontinuance by the end of 2012.

Respectfully Submitted: 

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