

**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
	)	

**PETITION FOR WAIVER OF SECTION 54.410(f) OF THE COMMISSION’S RULES**

Leap Wireless International, Inc. and Cricket Communications, Inc. (together, “Cricket”), pursuant to Sections 1.2 and 1.3 of the Commission’s rules,<sup>1</sup> hereby petition for a one-time waiver of Section 54.410(f) of the Commission’s rules<sup>2</sup> with respect to a limited category of Cricket Lifeline subscribers: Cricket subscribers who enrolled in the Lifeline program in the states of Kentucky, Maryland, and Missouri between January 1, 2012 and May 31, 2012.

The Commission’s recent *Lifeline Reform Order* required Eligible Telecommunications Carriers (“ETCs”) to recertify all Lifeline subscribers as of June 1, 2012 by December 31, 2012, and to report the results to USAC on or before January 31, 2013.<sup>3</sup> In three of the states in which Cricket is an ETC (Kentucky, Maryland, and Missouri), Cricket enrolled subscribers in Lifeline

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<sup>1</sup> 47 C.F.R. §§ 1.2, 1.3.

<sup>2</sup> 47 C.F.R. § 54.410(f).

<sup>3</sup> *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*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45, ¶¶ 130, 132 (rel. Feb. 6, 2012) (“*Lifeline Reform Order*”).

during the first five months of 2012 using a comprehensive certification process that documented the subscribers' eligibility for Lifeline, consistent with the Commission's now-applicable verification rules. In particular, subscribers were not permitted to self-certify their eligibility, but rather were required to provide documentary proof of program-based or income-based eligibility. As a result, for the subscribers in those states who enrolled between January 1, 2012 and May 31, 2012, a recertification process would impose needless and undue burdens, as the existing enrollment process—employed just a few months ago—already was sufficiently comprehensive to establish the subscribers' eligibility and to detect and prevent waste, fraud, and abuse. Far from advancing the Commission's objectives, requiring recertification with respect to subscribers whose eligibility was fully documented earlier this year would introduce significant confusion among those subscribers and could result in the loss of thousands of eligible Lifeline subscribers (given the possibility that many subscribers who recently enrolled would not respond to recertification notices due to confusion).

In these circumstances, Cricket submits that a limited, one-time waiver of the recertification requirement—which would apply only to Cricket Lifeline subscribers in Kentucky, Maryland, and Missouri who enrolled between January 1, 2012 and May 31, 2012—would advance the public interest. Good cause exists for the waiver because it will not undermine the Commission's policies, it will avoid unnecessary burdens and consumer confusion, and it will reduce the loss of legitimate Lifeline subscribers who depend on the benefits of the Lifeline program.

## **BACKGROUND**

Cricket is a designated ETC in multiple states and has enrolled (and continues to enroll) Lifeline subscribers. In many of those states, Cricket did not begin enrolling Lifeline subscribers

until after June 1, 2012. But in three states—Kentucky, Maryland, and Missouri—Cricket both enrolled Lifeline subscribers between January 1, 2012 and May 31, 2012, and also used a comprehensive verification process to establish those subscribers' eligibility for the Lifeline program.

In Missouri and Kentucky, Lifeline applicants were required to present documentation verifying their eligibility for the program to Cricket sales representatives, including a valid picture identification as well as additional supporting documentation establishing their participation in one of several qualifying programs. The Cricket sales representatives reviewed the documentation and also executed a form attesting to the specific type of identification and supporting documentation that was produced and verified. In Maryland, most applicants underwent a similar verification process of reviewing supporting documentation, while a small number were certified by querying state eligibility lists that confirmed their participation in qualifying programs based on state records. The relevant application materials for Missouri, Kentucky, and Maryland are appended hereto as Exhibits 1, 2, and 3.

As reflected in the attached materials, applicants in all three states were required to certify under penalty of perjury that they understood that Lifeline assistance is available only for one phone line per household, and that the information in their application was true and correct. Applicants also agreed in writing to notify Cricket if they added Lifeline on another phone line, as well as if they ceased participation in their qualifying programs. In none of those three states were applicants permitted to self-certify their Lifeline eligibility.

The number of Lifeline subscribers who enrolled using these procedures between January 1, 2012 and May 31, 2012 was 1,399 in Kentucky, 2,108 in Maryland, and 2,404 in Missouri.

## ARGUMENT

### I. GOOD CAUSE EXISTS FOR A ONE-TIME WAIVER OF SECTION 54.410(f) OF THE COMMISSION'S RULES WITH RESPECT TO CERTAIN CRICKET CUSTOMERS

The Commission may waive any provision of its rules upon a showing of “good cause.”<sup>4</sup>

In these circumstances, there is good cause for the limited, one-time waiver of the re-certification requirement for the specific subset of Cricket Lifeline subscribers described above.

#### A. The Commission's Policies Will Not Be Undermined by a One-Time Waiver in These Circumstances

The Commission's *Lifeline Reform Order* established rules that, among other things, aimed to modernize and reform the Lifeline program and to better detect and prevent waste, fraud, and abuse.<sup>5</sup> Among the reforms were enhanced initial and annual certification requirements that required ETCs to engage in rigorous certification procedures for Lifeline subscribers, including obtaining documentation of eligibility and requiring consumers to make certifications regarding their eligibility.<sup>6</sup> The Commission also instituted an obligation that ETCs obtain a re-certification of all Lifeline subscribers enrolled in the program as of June 1, 2012 by December 31, 2012.<sup>7</sup>

The limited, one-time waiver that Cricket requests is consistent with the policies and reforms set forth in the *Lifeline Reform Order*. In the three states at issue, Cricket required documentation prior to enrollment or, for a limited number of Maryland subscribers, conducted a verification using state eligibility lists. Cricket also required subscribers to certify to the truthfulness of their applications, as well as their recognition that Lifeline is available only for

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<sup>4</sup> 47 C.F.R. § 1.3.

<sup>5</sup> See, e.g., *Lifeline Reform Order* ¶¶ 1, 4.

<sup>6</sup> See, e.g., *id.* ¶¶ 98-119.

<sup>7</sup> See, e.g., *id.* ¶¶ 130-132.

one phone line per household. Cricket's certification process thus satisfied the fundamental requirements that the Commission introduced in the *Lifeline Reform Order*. Therefore, the limited one-time waiver of the re-certification obligation would not in any way undermine the Commission's policies or reform efforts.

**B. Enforcing Section 54.410(f) In These Circumstances Would Have Adverse Results**

Far from advancing Commission policy, strict adherence to the recertification requirements for the subscribers at issue would result in needless burdens and consumer harm. Recertification creates significant burdens on ETCs, and while those burdens may be justified in many instances as part of necessary reform efforts, in the limited circumstances of Cricket's recent enrollees in three states, recertification following on the heels of documented enrollment is wholly unnecessary and thus would create burdens without any material corresponding benefits. Moreover, the recertification process is likely to create significant confusion among those subscribers, because they recently enrolled by providing comprehensive documentation and are likely to be puzzled as to why they are being asked to participate in another certification process so soon after enrolling. Cricket accordingly believes that many of the subscribers that it recently enrolled could ignore or discard any recertification forms. In turn, these Lifeline subscribers, who legitimately qualify for Lifeline benefits and very recently established that qualification with documentation, would lose their benefits because of duplicative and confusing administrative requirements rather than because they have actually lost their eligibility for benefits.

Because Cricket's request is limited to a one-time waiver, the relevant Lifeline subscribers will be subject to recertification requirements in 2013 and beyond. Cricket's request also is limited to those states in which Cricket employed robust certification processes that are

