Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

SUPPLEMENT TO PETITION FOR RECONSIDERATION AND EMERGENCY PETITION TO REQUIRE RETENTION OF PROGRAM-BASED ELIGIBILITY DOCUMENTATION

TracFone Wireless, by its attorneys, hereby petitions the Commission to forthwith require that all Eligible Telecommunications Carriers ("ETCs") who view documentation of program-based Lifeline eligibility pursuant to recently-promulgated Section 54.410(c)(1)(i)(B) of the Commission's rules be required to maintain in their possession and available for audit all such documentation for not less than three years following receipt of such documentation. As will be explained herein, retention of such documentation is necessary to ensure that the review of documentation requirement achieve its intended purpose of preventing waste, fraud and abuse of Universal Service Fund ("USF") resources.

Commencing June 1, 2012, in states where access to program-based eligibility databases is not available, Section 54.410(c)(1)(i)(B) requires that ETCs "review documentation demonstrating that a prospective subscriber qualifies for Lifeline under the program-based eligibility requirements." Curiously, the rule only requires that ETCs review such

documentation. Conspicuously absent from the rule is any requirement that they retain such documentation to prove that such documentation was produced by Lifeline applicants and reviewed by the ETCs. In fact, Section 54.410(c)(1)(ii) specifically prohibits ETCs from retaining copies of the documentation of program-based eligibility produced by applicants for Lifeline enrollment. Rather they must "maintain accurate records detailing the data source a carrier used to determine a subscriber's program-based eligibility or the documentation a subscriber provided to demonstrate his or her eligibility for Lifeline."[1] In short, ETCs are only required to keep their own notes that they reviewed documents provided by consumers, not the documents themselves.

Since the inception of this proceeding, TracFone has consistently opposed the requirement that Lifeline applicants produce such documentation of program-based eligibility. In comments on the Commission's notice of proposed rulemaking, numerous ex parte presentations, and in its petition for reconsideration, TracFone explained that in those few states where such "full certification" has been required, the percentage of qualified low-income households who complete the Lifeline enrollment process is far below the percentage who complete the process in those states where documentation of program-based eligibility is not required. In its petition for reconsideration, TracFone noted the utter absence of any evidentiary data supporting the unproven supposition that requiring documentation of program-based eligibility would somehow prevent fraudulent enrollment by unqualified persons in Lifeline programs.

The Commission has mandated full certification and, in doing so, rejected TracFone's evidence that the requirement would significantly reduce enrollment in Lifeline by qualified low-

[1] 47 C.F.R. §54.410(c)(1)(iii).

income consumers who either lacked such documentation or who lacked the means to transmit such documentation to their preferred ETCs in a timely manner. According to the Commission, "self-certification does little to guard against those persons who wish to intentionally defraud the Lifeline program by enrolling in the program despite their ineligibility."[2] To paraphrase the Commission, self-certification under penalty of perjury does not prevent those who wish to cheat the system from doing so.

Although there is no evidence that such cheating exists, let alone is rampant as speculated by the Commission, TracFone acknowledges that under a self-certification under penalty of perjury system, unscrupulous persons who wish to cheat and receive Lifeline benefits to which they are not entitled may be able to do so. However, the full certification requirement codified at Section 54.410(c) of the Commission's rules, in the absence of a document retention requirement, creates comparable, if not even greater, opportunities for unscrupulous ETCs to similarly cheat in order to receive Lifeline support from the USF to which they are not entitled.[3]

TracFone is aware of no direct evidence that ETCs have fraudulently claimed to have viewed program-based eligibility documents in states where it has been required, just as it is aware of no direct evidence of consumers fraudulently self-certifying program-based eligibility in states where self-certification under penalty of perjury has been permissible. The unassailable truth is that requiring ETCs only to "review" documentation of program-based eligibility and to keep records that they viewed the documentation (but not to retain the documentation itself)

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[2] Lifeline and Link Up Reform and Modernization, *et al.*, FCC 12-11, released February 6, 2012 ("Lifeline Reform Order").

[3] Under the Commission's prior self-certification rule, Lifeline applicants were required to self-certify their program-based eligibility **under penalty of perjury**. Ironically, the recently-promulgated requirement that ETCs keep notes of their review of eligibility documentation presented to them is not subject to a requirement that falsification of such notes would be subject to perjury penalties.

creates every bit as much of an opportunity to cheat and to cause waste, fraud, and abuse of USF resources as does self-certification under penalty of perjury.

Both self-certification under penalty of perjury and full certification without a documentation retention requirement are "honor systems." Both rely upon the honesty of persons who have economic incentives to falsify information. In the case of self-certification, Lifeline applicants are on their honor to certify that they participate in a qualifying program; in the case of full certification, ETCs are on their honor to review documentation produced by applicants for Lifeline benefits. If the Commission is seriously committed to reducing waste, fraud and abuse of USF resources by preventing fraudulent Lifeline enrollment -- a goal which TracFone has long supported and initiated steps to achieve -- then it has an obligation to impose consistent requirements to enable detection and prevention of fraud.

No better example of the need for a real full certification requirement -- one with mandatory retention of documentation of eligibility -- exists than the situation found in Missouri. Missouri is a full certification state -- one of only seven such states in which TracFone currently provides Lifeline service subject to a full certification requirement prior to the June 1 effective date of Section 54.410(c).[4] Yet that full certification state was the location of some of the most shameful examples of Lifeline enrollment misconduct by ETCs. In 2011, news reports on Missouri local media outlets of ETCs literally handing out cell phones in public places in Missouri caused Senator Claire McCaskill to send a letter to Chairman Genachowski raising

[4] Contrary to the unsupported claim in the Government Accountability Office's 2010 Report cited by the Commission in the Lifeline Reform Order that 25 unidentified states already require full certification, only 7 of the 41 states in which TracFone is a designated ETC require full certification.

those concerns and asking the Commission to address waste, fraud and abuse.[5] At that time, Missouri had a full certification requirement similar to that recently promulgated by the Commission. Like the Commission's requirement, Missouri required ETCs to view documentation but not to retain it. ETCs were on their honor to review documentation and to only enroll those persons who produced documentation of enrollment in qualifying programs. As Missouri and Senator McCaskill learned, a few ETCs operating in that state were less than honorable. More importantly, Missouri's full certification requirement contained no mechanism to prevent those ETCs who wanted to maximize Lifeline revenue from claiming to have reviewed documentation without having done so.

The Missouri experience is instructive, but not unique. Mandatory full certification will do little to prevent waste, fraud and abuse of USF resources unless and until ETCs are required to receive the documentation, retain it and have it available for inspection by Universal Service Administrative Company and Commission auditors. Without such a requirement, ETCs will have the ability and the economic incentive to claim to have reviewed documentation and to keep notes of having reviewed such documentation without any auditable evidence that such documentation was ever produced or that such ETC-produced notes are accurate.

For the foregoing reasons, TracFone respectfully urges the Commission to require that all ETCs receiving documentation of program-based eligibility retain the documentation of program-based eligibility provided by applicants for Lifeline enrollment for not less than three years. Without such a document retention requirement, the Commission's full certification rule will not prevent fraudulent enrollment and resulting waste, fraud and abuse of USF resources. It

[5] Letter from United States Senator Claire McCaskill to the Honorable, Julius Genachowski, Chairman, Federal Communications Commission, dated December 9, 2011.

will only complicate the Lifeline enrollment process and reduce the number of qualified low-income households from enrolling in Lifeline programs -- as it has done in the few states such as Missouri where it has been required. TracFone further requests that the June 1, 2012 full certification effective date be postponed until the Commission articulates a documentation retention requirement in order to prevent fraudulent enrollment and waste, fraud and abuse of USF resources.

Respectfully submitted,

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