BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	
Petition for Rulemaking to Prohibit In-Person Distribution of Handsets to Prospective Lifeline Customers	WC Docket No. 11-42
Lifeline and Link Up Reform and Modernization	WC Docket No. 03-109
Lifeline and Link Up	CC Docket No. 96-45
Federal-State Joint Board on Universal Service	

COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE PEOPLE OF THE STATE OF CALIFORNIA ON TRACFONE WIRELESS, INC.'S PETITION FOR RULEMAKING

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I. INTRODUCTION

The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these comments in response to the Federal Communications Commission's (FCC or Commission) Wireline Competition Bureau's (Bureau) Notice Seeking Comment on TracFone Wireless, Inc.'s (TracFone) Petition for Rulemaking[1] (*TracFone Petition*) to prohibit in-person distribution of handsets to prospective Lifeline participants in order to prevent waste, fraud, and abuse in the federal Lifeline program.[2]

The CPUC opposes the TracFone Petition. Based on California's experience, the proposal is unnecessary to prevent waste, fraud, and abuse of Universal Service Funds (USF). If implemented, TracFone's proposal would likely preempt California's Lifeline rules, practices, and procedures, and would impede our ability to provide telephone service to people who need it. The CPUC uses a third-party administrator to perform eligibility certification and verification, and a pre-qualification system for all prospective participants, which requires them to have a handset and telephone service activated before service providers can apply for the Lifeline subsidy on their behalf. The CPUC values timely and immediate access to telephone service for Lifeline customers over

[1] *Petition for Rulemaking to Prohibit In-Person Distribution of Handsets to prospective Lifeline Customers; Lifeline and Link Up Reform and Modernization et al., Petition for Rulemaking,* WC Docket Nos. 11-42 *et al.*, CC Docket. No. 96-45 (filed May 13, 2013). *(TracFone Petition).*

[2] Wireline Competition Bureau Seeks Comment on TracFone's Petition to Amend Lifeline Rules to Prohibit In-Person Distribution of Handsets to Prospective Lifeline Customers, WC Dkt No 11-42, (DA-1109); (rel. May 16, 2013).

limiting handset distribution, and for some participants,[3] in-person distribution is an effective method in fulfilling California's universal service goals.[4]

II. DISCUSSION

A. Background

TracFone requests that the Commission open a rulemaking to consider adopting a prohibition of in-person distribution of handsets to prospective federal Lifeline participants.[5] TracFone asserts that this will greatly reduce waste, fraud, and abuse of USF resources because it will address concerns that some service providers may be providing individuals with free handsets, enrolling them in the federal Lifeline program and providing them automatically with federal Lifeline supported-service without first verifying eligibility.[6] TracFone asserts that prohibiting in-person distribution of handsets to prospective federal Lifeline participants would also reduce the negative perception of the federal Lifeline program.

In April of 2004, the FCC issued a Report and Order[7] requesting independent verification of Lifeline participant eligibility. In response, the CPUC hired a third-party administrator (California LifeLine Administrator or Administrator) to perform eligibility reviews.[8] The Administrator also manages Lifeline database, including maintaining security and privacy of subscriber data.[9] Because California has a pre-qualification

[3] Particularly participants who live in homeless shelters, single room occupancy hotels or are homeless.
[4] CPUC Decision 84-04-053; adopted April 18, 1984.
[5] *Id.* at 1.
[6] TracFone Petition at 6.
[7] *FCC Lifeline and Link-Up Report and Order and Further Notice of Proposed Rulemaking,* WC Docket No. 03-109, FCC 04-87 (rel. April 29, 2004).
[8] CPUC Decision 05-04-026; adopted April 7, 2005.
[9] *Id.* at 49-50.

system and an independent and unbiased third-party administrator that conducts eligibility review for every prospective Lifeline participant, we have not experienced the concerns expressed by TracFone.

B. California's Solutions: Pre-qualification, Pre-registration and Records Retention

1. Pre-qualification of Consumers

The Commission should not focus on the distribution of handsets as an avenue for preventing potential waste, fraud, and abuse. The federal Lifeline program does not subsidize handsets; it provides a subsidy for monthly service. Instead, the FCC should ensure that service providers are complying with the existing rules regarding eligibility checks and when the federal Lifeline subsidy should be applied to combat potential unlawful activities.

California has found that its pre-qualification system is an effective method for preventing waste, fraud, and abuse. In 2008, the CPUC adopted a pre-qualification system for the California LifeLine Program.[10] This system requires all service providers to activate telephone service --whereby a consumer can make and receive phone calls at regular tariff rates and charges-- *prior* to requesting the California LifeLine Administrator to start the LifeLine application process. The pre-qualification system ensures that the consumer has an activated telephone service and the support is not inappropriately disbursed.

[10] CPUC Decision 08-08-029; adopted August 8, 2008.

Unlike TracFone's assertion of problems with free handsets,[11] the federal Lifeline wireless service providers in California offer free handsets to consumers who are likely to qualify for the discounts. To prevent the potential monetary loss of providing a free handset to an applicant who is subsequently determined to be ineligible for the program, two of the federal Lifeline wireless service providers in California require consumers to provide them with copies of eligibility documentation, separate from, and in addition to the documentation requirements of the California LifeLine Administrator. In essence, the service providers conduct a pre-screening -- substantiated with documentation – before providing the consumers with free handsets and informing the Administrator to start the official Lifeline application process. TracFone's proposal to prevent handset distribution prior to eligibility determination conflicts with California's pre-qualification system.

2. Pre-registration for Consumers

In an open Rulemaking (R.11-03-013), the CPUC will consider allowing consumers to contact the California LifeLine Administrator to first establish their eligibility, in advance of activating LifeLine service. In this proposal, the Administrator would electronically transmit the relevant information to the service provider and would also track the pre-authorizations and when the service providers activate the Lifeline service. This alternative application process would allow consumers and service providers to have an eligibility decision from the Administrator prior to commencing LifeLine service, reducing the risk of providing subsidy to ineligible persons.

[11] TracFone Petition at 4.

3. Eligibility Records Retention and Auditing

Prohibiting in-person distribution of handsets is neither the only, nor the most effective means of controlling waste, fraud and abuse. In addition to the pre-qualification system that California uses or the pre-registration process under study, the FCC may also require the retention of proof of eligibility as TracFone suggests.[12] The California LifeLine Administrator retains all eligibility documentation for approved and denied participants. At any point, the Administrator can be audited to determine if the correct eligibility determination was reached, and if waste, fraud and abuse has occurred. Records retention, combined with the identity verification in the FCC's National Lifeline Accountability Database, is sufficient to address the issue of improper or inadequate eligibility documentation.

III. CONCLUSION

For the reasons discussed above, the CPUC opposes the TracFone Petition to open a rulemaking to amend the federal Lifeline rules. Implementing TracFone's proposal to limit in-person handset distribution would be like using a hammer where a screwdriver is needed. The problem is not the distribution of free handsets, but the failure of some service providers to perform the eligibility checks as required under the existing rules. The solution that California has implemented, which incorporates both a third party administrator and a records retention policy, is a more effective tool than the solution proposed by TracFone in preventing waste, fraud, and abuse in the federal Lifeline program.

[12] TracFone Petition at 4.

Respectfully submitted,

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