

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

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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
	)	

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**COMMENTS OF THE LIFELINE REFORM 2.0 COALITION ON TRACFONE  
PETITION FOR WAIVER**

The Lifeline Reform 2.0 Coalition (“Coalition”),<sup>1</sup> by and through its undersigned counsel, respectfully submits these comments in response the Wireline Competition Bureau’s (“Bureau’s”) Public Notice<sup>2</sup> seeking comment on TracFone Wireless, Inc.’s (“TracFone’s”) petition for waiver of Lifeline rules prohibiting retention of income-based and program-based eligibility documentation.<sup>3</sup> The Coalition members have consistently supported allowing or requiring Lifeline eligible telecommunications carriers (“ETCs”) to retain income-based and program-based eligibility documentation from subscribers, including as a key part of the

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<sup>1</sup> The Coalition is comprised of Blue Jay Wireless, LLC; Boomerang Wireless, LLC; Global Connection of America Inc.; i-wireless LLC and Telrite Corporation.

<sup>2</sup> *See Wireline Competition Bureau Seeks Comment on Petition for Waiver of Lifeline Rules Prohibiting Retention of Income-Based and Program-Based Eligibility Documentation*, WC Docket No. 11-42, Public Notice, DA 14-116 (rel. Jan. 31, 2014) (“Public Notice”).

<sup>3</sup> *See TracFone Wireless, Inc. Petition or Waiver of Lifeline Rules Prohibiting Retention of Income-Based and Program-Based Eligibility Documentation*, WC Docket No. 11-42 (filed Jan. 22, 2014) (“Petition for Waiver”).

Coalition's own petition for rulemaking that is pending with the Commission.<sup>4</sup> The Coalition supports TracFone's petition in principle, however, the Petition for Waiver applies only to TracFone and any relief granted should be applied to all Lifeline ETCs. There is no reason that the relief requested should be limited to any particular ETC. In addition, the need for retention of eligibility proof is particularly important given the lack of a national eligibility database and the status of many state eligibility databases, which are sometimes flawed and can be supplemented by an ETC's review and retention of eligibility proof.

### **I. The Commission Should Grant a Blanket Waiver of the Rules Prohibiting Retention of Income-Based and Program-Based Eligibility Documentation**

The Coalition members consistently have supported allowing or requiring ETCs to retain Lifeline customer eligibility documentation. As TracFone notes, it filed an emergency petition to require retention of program-based eligibility documentation on May 30, 2012.<sup>5</sup> On July 9, 2012, the Bureau released a public notice seeking comment on the Emergency Petition.<sup>6</sup> On July 24, 2012, a group of Joint Commenters, including members of the Coalition, filed comments in support, and noted that ETCs should be required to retain income-based eligibility documentation as well, so that all such eligibility documentation can be used to respond to audits.<sup>7</sup>

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<sup>4</sup> See Lifeline Reform 2.0 Coalition's Petition for Rulemaking to Further Reform The Lifeline Program, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 at 6-7 (filed June 28, 2013) ("Lifeline 2.0 Petition").

<sup>5</sup> See Petition at 3 (citing Supplement to Petition for Reconsideration and Emergency Petition to Require Retention of Program-Based Eligibility Documentation, WC Dkt. Nos. 12-23, 03-109, CC Dkt. No. 96-45, filed May 30, 2012).

<sup>6</sup> See *Wireline Competition Bureau Seeks Comment on TracFone Petition to Require Retention of Lifeline Program-Based Eligibility Documentation*, WC Docket Nos. 12-23, 11-42, 03-109, CC Docket No. 96-45, Public Notice, DA 12-1095 (July 9, 2012).

<sup>7</sup> See Comments of the Joint Commenters on TracFone Petition to Require Retention of Lifeline Program-Based Eligibility Documentation, WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45 (filed July 24, 2012). The Joint Commenters included

Nearly a year later, the Coalition proposed additional reforms designed to further reduce waste, fraud and abuse in the Lifeline program, as well as the perception of the existence of waste, fraud and abuse. A key proposal in the Lifeline 2.0 Petition was permitting ETCs to retain eligibility proof so that they can appropriately respond to audits and to media inquiries or claims that someone was able to enroll in Lifeline without showing proof of eligibility.<sup>8</sup> In its reply comments, the Coalition noted that this proposal was perhaps the most widely supported among the commenters.<sup>9</sup> The Coalition attempted to address any concerns regarding customer privacy by stating that the Bureau could: (1) require that electronic storage of documentation of eligibility be encrypted to a reasonable standard; (2) establish a reasonable length of retention; and (3) establish a trusted third party such as USAC or another entity to retain the documentation of eligibility.<sup>10</sup>

In this Petition for Waiver, TracFone references the need to retain eligibility proof in order to respond to USAC or Commission audits and inquiries, conduct internal quality assurance reviews, respond to Commission enforcement actions and confirm applicants' identities for purposes of loading them into the National Lifeline Accountability Database ("NLAD").<sup>11</sup> Although all of these are legitimate reasons to permit or require ETCs to retain

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Coalition members Boomerang Wireless, LLC; Global Connection Inc. of America; Telrite Corporation; and Blue Jay Wireless, LLC. i-wireless filed separate comments supporting TracFone's request. *See* Comments of i-wireless, LLC on TracFone Petition to Require Retention of Lifeline Program-Based Eligibility Documentation, WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45 (filed July 17, 2012) (noting that retention of proof streamlines Universal Service Administrative Company's ("USAC's") evaluation of eligibility proof during an audit).

<sup>8</sup> *See* Lifeline 2.0 Petition at 6-7.

<sup>9</sup> *See* Reply Comments of the Lifeline Reform 2.0 Coalition, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 at 7-8 (filed Aug. 29, 2013).

<sup>10</sup> *See id.* and Lifeline Reform 2.0 Coalition Notice of *Ex Parte* Presentation, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 at 2 (Sept. 17, 2013)

<sup>11</sup> *See* Petition for Waiver at 4-9.

eligibility proof, none of them are unique to TracFone. The Coalition members are subject to the same audits and inquiries as TracFone, three of the five members have received similar notices of apparent liability as TracFone and all of the members will need to manage the NLAD third party identity verification (“TPIV”) exceptions process just like TracFone.<sup>12</sup> Therefore, while the record abounds with legitimate reasons to permit or require all Lifeline ETCs to retain eligibility proof, to grant a waiver only to TracFone, which has demonstrated no unique circumstances or need, would be arbitrary and unreasonable.

Further, TracFone has proposed certain means to protect consumer privacy, such as maintaining the eligibility documentation on a secure server, limiting access to the documentation to specifically-authorized employees and for specific purposes, and seeking customer consent to retain the documentation.<sup>13</sup> These are reasonable proposals that, in addition to the privacy safeguards proposed by the Coalition in its Lifeline 2.0 Petition, can adequately protect consumer privacy while improving the checks on waste, fraud and abuse (or perception thereof) in the Lifeline program, but they can all be implemented by the Coalition members and presumably other ETCs as well. There is nothing unique to TracFone to be found in the privacy protection proposals.

## **II. ETCs Can Supplement State Eligibility Databases with Review and Retention of Eligibility Documentation**

The Coalition agrees, as TracFone stated, that eligibility documentation could assist ETCs to confirm applicants’ identity if they fail the TPIV check in the NLAD, however, the greater purpose for retention of eligibility documentation is to supplement sometimes flawed

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<sup>12</sup> TracFone asserts that some eligibility documentation could also serve as proof of identity to override a TPIV failure in NLAD, such as pay stubs or a notice letter of participation in a qualifying assistance program. *See* Petition for Waiver at 8.

<sup>13</sup> *See* Petition for Waiver at 5.

state eligibility databases.<sup>14</sup> The Commission has not provided any guidance to states or set minimum standards with respect to eligibility databases, which could have important implications for Lifeline-eligible consumers. Therefore, the Coalition members have proposed that the Commission establish minimum requirements for state eligibility databases.<sup>15</sup> A database that meets the Coalition’s proposed minimum criteria is unlikely to result in significant numbers of eligible Lifeline customers being turned away. However, the Coalition members submit that an “exceptions management” process can be used for situations where eligible consumers are not found in the applicable state eligibility database. That exceptions process relies largely on the review and retention (as proposed) of eligibility documentation and it is even more important where state eligibility databases do not meet the minimum standards the Coalition has proposed.

As the Coalition has explained previously, the most reasonable reading of the Commission’s Lifeline enrollment rules allows eligible Lifeline applicants to enroll in Lifeline service by showing documentation of eligibility even if they are not found in a state eligibility database.<sup>16</sup> Applicants that are eligible for Lifeline service should not be turned away because a

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<sup>14</sup> See Notice of *Ex Parte* Presentation of Telrite Corporation; Boomerang Wireless, LLC; and i-wireless LLC, WC Docket No. 11-42 (filed Dec. 11, 2013) (“State Database *Ex Parte*”).

<sup>15</sup> The minimum requirements proposed are: (1) real-time API access to data; (2) updated in a timely fashion, which ideally would be real-time or within 24-hours; (3) simple yes/no response without access to underlying data (to address privacy concerns); (4) match based on last name, date-of-birth and last four digits of the applicant’s social security number (no address-related field); (5) efficient exceptions and dispute resolution process; and (6) provide access to the Commission and USAC for audit purposes. See *id.* at 4.

<sup>16</sup> See State Database *Ex Parte* at 4. Section 54.410(c)(1)(i)(B) of the Commission’s rules regarding program-based eligibility provides, “If an [ETC] cannot determine a prospective subscriber’s program-based eligibility for Lifeline by accessing eligibility databases, the [ETC] must review documentation demonstrating that a prospective subscriber qualifies for Lifeline under the program-based eligibility requirements.” Section 54.410(b)(1)(i)(B) of the rules provides the same language with respect to

state eligibility database is flawed. Therefore, review of eligibility documentation can continue to serve an important purpose as states build, improve and modify their Lifeline eligibility databases. Allowing ETCs to retain that eligibility documentation will bolster the effectiveness of eligibility determinations and the ability for the Commission and USAC to audit for compliance.

### **III. Conclusion**

The Bureau should grant a blanket waiver to all Lifeline ETCs from the prohibition in Sections 54.410(b)(1)(ii) and 54.410(c)(1)(ii) of the Commission's rules on retaining Lifeline applicant eligibility documentation. The Coalition members have consistently supported allowing or requiring Lifeline ETCs to retain income-based and program-based eligibility documentation from subscribers, including as a key part of the Coalition's own petition for rulemaking that is pending with the Commission. The Coalition supports TracFone's petition in principle, however, the Petition for Waiver applies only to TracFone and any relief granted should be applied to all Lifeline ETCs. In addition, the need for retention of eligibility proof is particularly important given the lack of a national eligibility database and the status of many state eligibility databases, which are sometimes flawed and can be supplemented by an ETC's review and retention (as proposed) of eligibility proof.

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income-based eligibility. If the applicant is found in the database, the applicant's eligibility has been determined and the ETC can enroll the applicant in Lifeline. If the applicant is not found in the state eligibility database, then the applicant's eligibility cannot be determined by the state database, and the ETC must review documentation of eligibility from the applicant to enroll the applicant in Lifeline. This reasonable interpretation of Sections 54.410(c)(1)(i)(B) and 54.410(b)(1)(i)(B) of the Commission's rules allows ETCs to enroll demonstrably eligible low-income consumers in Lifeline rather than having to turn them away.

By:



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