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

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

COMMENTS OF COMPTEL

COMPTEL, through undersigned counsel, hereby supports TracFone Wireless, Inc.'s Petition for Waiver of Lifeline Rules Prohibiting Retention of Income-based and Program-based Eligibility Documentation. COMPTEL submits that the rules should be waived not only for TracFone, but also for all other Eligible Telecommunications Carriers ("ETCs") providing Lifeline service.

Sections 54.410(b)(1)(ii) and 54.410(c)(1)(ii) of the Commission's rules, 47 C.F.R.§§54.410(b)(1)(ii) and 54.410(c)(1)(ii), prohibit ETCs from retaining copies of the documentation that they review to demonstrate that a prospective Lifeline customer is eligible for Lifeline service. ETCs are required, however, to keep and maintain records detailing the data sources the ETCs reviewed to determine a subscriber's eligibility or the documentation a subscriber provided to demonstrate his or her eligibility for Lifeline, 47 C.F.R. §§54.410(b)(1)(iii) and 54.410(c)(1)(iii). In the event of an audit or in-depth validation review by the Universal Service Administration Company ("USAC") or an investigation by the

Commission's Enforcement Bureau or Inspector General with respect to whether certain Lifeline beneficiaries meet the Commission's eligibility criteria, requiring ETCs to review but not retain eligibility documentation puts them in the untenable position of being unable to provide proof to USAC or the Commission that those beneficiaries did in fact qualify for the service.[1]

In its Report and Order reforming and modernizing the Lifeline program, the Commission took steps to reduce and eliminate waste, fraud and abuse in the distribution of Lifeline benefits.[2] Among the measures it adopted was the establishment of the National Lifeline Accountability Database ("NLAD") designed to prevent duplicative Lifeline support claims for the same customer.[3] Access to the NLAD has recently been made available and ETCs operating in states that do not have an equally robust method in place to prevent duplicate Lifeline claims are required to query the database to confirm that a prospective customer is not already receiving Lifeline service before providing or seeking reimbursement for the service to that customer.

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[1] *See also*, February 20, 2014 Letter from Maribeth Snapp and Jim Jones, Oklahoma Corporation Commission, to Marlene Dortch filed in WC Docket No. 11-42 (allowing ETCs to retain proof of eligibility would be helpful in state commission investigations of ETC compliance with state and federal Lifeline rules). The Oklahoma Corporation Commission currently has a rulemaking proceeding underway in which it is considering an amendment to its universal service rules that would require ETCs to retain copies of eligibility documentation. See *In the Matter of a Permanent Rulemaking of the Oklahoma Corporation Commission Amending OAC 165:59, Oklahoma Universal Service*, Cause No. 201400003, and *In the Matter of a Permanent Rulemaking of the Oklahoma Corporation Commission Amending OAC 165:55, Telecommunications Services*, Cause No. 20140004, available at http://www.occeweb.com/rules/proprules/proprule.html

[2] *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*").

[3] 47 C.F.R. §54.404.

The Commission also recognized the need to establish a "fully automated means for verifying consumers' initial and ongoing Lifeline eligibility from governmental data sources" to improve the accuracy of eligibility determinations and reduce burdens on consumers and ETCs.[4] The Commission directed the Wireline Competition Bureau and USAC "to take all necessary actions so that, as soon as possible, and no later than the end of 2013, there will be an automated means to determine Lifeline eligibility."[5] Unfortunately, 2013 has come and gone, but there is still no national database in place for ETCs to determine a prospective customer's eligibility for Lifeline service. Indeed, the Commission has yet to even issue an order resolving the additional questions it raised about the establishment of the national eligibility database more than two years ago in the Further Notice of Proposed Rulemaking.[6] Despite the Commission's decision to accelerate the adoption of an automated means of verifying Lifeline program eligibility,[7] the Lifeline eligibility database seems to have been relegated to a back burner with no projected availability date on the horizon.

Until such time as a qualifying national eligibility database becomes available, ETCs are required to "review documentation that establishes that the prospective subscriber meets the income eligibility criteria" or "the program-based eligibility requirements" and keep records detailing what was reviewed.[8] To the extent that the Commission or USAC raises a question about the eligibility of a particular subscriber for Lifeline service, an ETC's record of what

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4 *Lifeline Reform Order* at ¶ 97.

5 *Id.* at ¶¶97, 403.

6 *Lifeline Reform Order* at ¶¶399-415.

7 *Id.* at ¶ 403.

8 47 C.F.R §§ 54.410(b)(i)(B) and (c)(i)(B).

eligibility documentation was reviewed before enrolling the subscriber is not necessarily going to indicate whether the subscriber is in fact eligible for the service. As TracFone argues, however, permitting ETCs to retain copies of the documentation reviewed will allow them to produce auditable evidence of the subscriber's eligibility for inspection by the Commission or USAC.[9] It will also allow them to demonstrate to the Commission or USAC that they have fully complied with the Commission's rule requiring verification of eligibility through review of appropriate documentation.

Over the last several months, the Commission has been aggressively pursuing enforcement actions against ETCs for alleged violations of the Lifeline eligibility rules. *See* FCC Public Notice, "FCC Proposes More than $14.4 Million in Forfeitures To Combat Duplicative Lifeline Service, Protect Lifeline Program," (rel. Sept. 30, 2013); FCC Public Notice, "FCC Proposes Nearly $33 Million in Penalties Against Lifeline Providers That Sought Duplicate Payments For Ineligible Subscribers," (rel. Nov. 1, 2013); FCC Public Notice, "FCC Proposes Nearly $44 Million in Fines Against 3 Lifeline Providers," (rel. Dec. 11, 2013). While these particular enforcement actions have all focused on duplicative claims for Lifeline service, the Commission could similarly investigate ETCs' compliance with the rules requiring verification of income-based or program-based eligibility. The Commission should not tie ETCs' hands in responding to allegations raised in any such investigations.

At least two petitions are pending,[10] one for almost two years, requesting that the Commission allow ETCs to retain copies of the documentation they review in determining a

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[9] TracFone's Waiver Petition at 1, 4, 7.

[10] See TracFone Supplement to Petition For Reconsideration and Emergency Petition To Require Retention of Program-Based Eligibility Documentation filed May 30, 2012 in WC

subscriber's eligibility for Lifeline service. The Commission should expeditiously grant such requests. In the meantime, and pending the development and availability of a national eligibility database, the Commission should waive for all ETCs the rules prohibiting the retention of documentation reviewed to confirm subscriber eligibility for Lifeline service.

For the foregoing reasons and those stated in TracFone's Petition For Waiver, COMPTEL respectfully requests that the Commission waive Sections 54.410(b)(1)(ii) and 54.410(c)(1)(ii) of the Commission's Rules for all ETCs.

Respectfully submitted,

/s/

March 3, 2014

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Docket Nos. 11-42, *et al.* and Lifeline Reform 2.0 Coalition Petition for Rulemaking filed June 28, 2013 in WC Docket Nos. 11-42 *et al.*