

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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

REPLY COMMENTS OF TRACFONE WIRELESS, INC.

TracFone Wireless, Inc. (“TracFone”), by its attorneys, hereby files its Reply Comments regarding its Petition for Waiver of Lifeline Rules Prohibiting Retention of Income-Based and Program-Based Eligibility Documentation.¹ In the Petition, TracFone requested that the Commission grant TracFone a waiver of Commission rules 54.410(b)(1)(ii) and 54.410(c)(1)(ii) (47 C.F.R. § 54.410(b)(1)(ii), (c)(1)(ii)) to allow TracFone to retain copies of documentation of income-based and program-based eligibility produced by applicants for enrollment in the Lifeline program for low-income consumers. As noted in the Petition, permitting TracFone to retain copies of Lifeline customers’ documentation supporting Lifeline eligibility will prevent fraudulent Lifeline enrollments and waste, fraud and abuse of Universal Service Fund (“USF”) resources, ensure that all qualified low-income households have access to Lifeline service, and

¹ See Public Notice – Wireline Competition Bureau Seeks Comment on Petition for Waiver of Lifeline Rules Prohibiting Retention of Income-Based and Program-Based Eligibility Documentation, DA 14-116, released January 31, 2014.

enable TracFone to have auditable evidence available for inspection by Universal Service Administrative Company (“USAC”) and Commission auditors.

Five comments were filed in response to the Public Notice, all of which support TracFone’s Petition. Each of the commenters echoes the arguments that TracFone raised in its Petition. One of the commenters’ primary concerns about the current prohibition on retaining documentation of Lifeline eligibility is that Eligible Telecommunications Carriers (“ETCs”) are unable to defend themselves in the event of an audit or in-depth validation review by USAC or an investigation by the Commission challenging the eligibility of Lifeline subscribers.² As cogently argued by COMPTTEL, “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.”³ The Commission’s recent initiation of enforcement actions against several ETCs regarding the existence of alleged duplicate subscribers indicates that there is a real threat of future enforcement actions related to the Lifeline program.⁴ As such, it is imperative that ETCs be allowed to fully defend themselves by retaining evidence that they comply with all applicable rules and only enroll qualified households in their Lifeline programs.⁵

The commenters agree that the implementation of various safeguards will alleviate any privacy concerns regarding retention of subscribers’ eligibility documents. For example, ETCs

² See Comments of the Lifeline Reform 2.0 Coalition, at 3-4; Comments of Nexus Communications, Inc., at 3-4 (“it is critical that ETCs be permitted to retain this documentation as evidence to defend themselves against enforcement actions based on allegations of unqualified or duplicate subscribers.”).

³ Comments of COMPTTEL, at 2.

⁴ *Id.* at 4; Comments of the Lifeline Reform 2.0 Coalition, at 4.

⁵ See Comments of NALPCA, at 2 (“[b]ecause ETCs cannot currently retain copies of eligibility documentation, full defense of company practices and systems is impeded.”).

can encrypt copies of documents, store them in secure storage media separate from other databases, limit access to the documents, and obtain advance consent from subscribers on Lifeline application forms.⁶ Moreover, the interest in protecting the USF from waste, fraud, and abuse outweighs privacy concerns related to retention of eligibility documentation, especially when ETCs implement procedures to safeguard such documentation.⁷ As noted by the Free State Foundation, implementing reforms that increase accountability, such as changing the Commission's rules to allow for eligibility documentation retention by ETCs, helps maintain public support for the Lifeline program and decreases the waste of Lifeline funds.⁸

TracFone also agrees with the Lifeline Reform 2.0 Coalition, which asserts that retention of eligibility documentation can supplement state eligibility databases.⁹ In the event that a state eligibility database is not current or has other errors, an applicant who is eligible for Lifeline may be wrongly denied Lifeline benefits. If ETCs are permitted to retain eligibility documentation, then they can use the documentation to improve the accuracy of eligibility determinations and facilitate the application process for eligible households. In addition, given that there is no national database to determine Lifeline eligibility, as was contemplated by the Commission to have been in place by the end of 2013, retention of eligibility documentation enables ETCs to have an auditable record regarding subscriber eligibility.¹⁰

⁶ See Comments of Nexus Communications, Inc., at 3;

⁷ See Comments of NALA/PCA, at 4.

⁸ See Comments of the Free State Foundation, at 3.

⁹ See Comments of the Lifeline Reform 2.0 Coalition, at 5-6.

¹⁰ See Comments of COMPTTEL, at 3-4.

Finally, comments filed by or on behalf of other ETCs request the Commission to issue a blanket waiver or to amend its rules to allow all ETCs to retain eligibility documentation.¹¹ TracFone agrees with those commenters that the arguments it raised in the Petition are equally applicable to all ETCs and supports grant of a blanket waiver or a rule amendment. Given that there is no opposition to revising the Commission's Lifeline rules to allow ETCs to retain eligibility documentation, TracFone urges the Commission to revise its rules, rather than issue a blanket waiver, to provide clear and conspicuous guidance to all ETCs regarding the records they must maintain. Indeed, almost two years ago, TracFone proposed that the Commission amend its rules to require all ETCs to retain Lifeline eligibility documentation for not less than three years¹² Although the Commission sought comment on TracFone's Petition to Amend, and with the exception of one entity, all commenters supported the document retention proposal, the Commission has not acted on the petition.

CONCLUSION

For the reasons stated in TracFone's initial request and in these reply comments, TracFone requests that the Commission grant TracFone's Petition to allow TracFone, as well as

¹¹ See, e.g., Comments of Nexus Communications, Inc., at 4 ("The arguments TracFone details in its Petition for Waiver are not unique to its business, but are common among all Lifeline ETCs."); Comments of COMPTTEL, at 5 (requesting waiver for all ETCs).

¹² Supplement to Petition for Reconsideration and Emergency Petition to Require Retention of Program-Based Eligibility Documentation, WC Dkt. Nos. 12-23, 11-42, 03-109, CC Dkt. No. 96-45, filed May 30, 2012 ("TracFone Petition to Amend"). Since becoming an ETC in 2008, TracFone has been at the forefront of efforts to reduce waste, fraud, and abuse of USF resources. TracFone proposed several reforms which became Commission requirements, including the following: (1) elimination of Link Up; (2) mandatory de-enrollment from Lifeline following 60 days non-usage; (3) annual re-certification of continued Lifeline eligibility for all Lifeline subscribers rather than only a statistically-valid sample of subscribers; and (4) a requirement that all Lifeline applicants provide date of birth, address and Social Security number (last 4 digits). TracFone will continue to identify and work to prevent opportunities to defraud the Lifeline program.

all other ETCs, to retain, subject to appropriate privacy protection safeguards, copies of documentation of Lifeline eligibility. The requested waiver or, in the alternative, amendment of the Commission's Lifeline rules will enable TracFone and other ETCs to implement internal quality control procedures to further ensure that they provide Lifeline service only to qualified households and to respond to audits and other inquiries from USAC and the Commission with auditable information. In addition, allowing ETCs to retain eligibility documentation will enable them to resolve eligibility determination errors related to state databases, thereby ensuring that only eligible low-income households are approved for Lifeline.

Respectfully submitted,

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March 18, 2014