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September 30, 2016

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42  
Telecommunications Carriers Eligible for Universal Service Support,  
WC Docket No. 09-197  
Connect America Fund, WC Docket No. 10-90**

**Motion Filed by TracFone Wireless for Stay or, in the Alternative, Deferral of  
the Effective Date of Revised Section 54.407(c)(2) of the Commission's Rules**

Dear Ms. Dortch:

Airvoice Wireless, LLC (“Airvoice”), hereby urges the Commission to grant a motion filed by TracFone Wireless, Inc. (“TracFone”)<sup>1</sup> to stay or otherwise defer the December 1, 2016, effective date of Section 54.407(c)(2) of the Commission’s Rules,<sup>2</sup> which will reduce the period for de-enrollment from the Lifeline program, due to non-usage of service, from 60 consecutive days to 30 consecutive days.<sup>3</sup>

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<sup>1</sup> TracFone, Motion for Stay or, in the Alternative, Deferral of the Effective Date of Revised 47 C.F.R. § 54.407(c)(2) (filed Sept. 8, 2016) (“TracFone Motion”).

<sup>2</sup> 47 C.F.R. § 54.407(c)(2). The rule was revised by the Commission in *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42, *et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) (“*Lifeline Modernization Order*”), *recon. pending*.

<sup>3</sup> TracFone has sought reconsideration of the *Lifeline Modernization Order*, addressing this and other issues. TracFone Petition for Reconsideration, WC Docket No. 11-42, *et al.* (filed June 23, 2016) (“TracFone Petition”). Section 54.407(c)(2), generally referred to as the “non-usage rule,” applies only to Lifeline providers who do not assess or collect monthly fees from enrollees in their Lifeline programs. The Commission’s revision to the rule also reduced the time allotted for service providers to notify their subscribers of possible termination from 30 to 15 days. Thus, “Lifeline service providers must notify subscribers of possible termination on the 30th day and terminate service if, during the subsequent 15 days, the subscriber has

By slicing the non-usage period in half, the revised rule will “dramatically increase the number of consumers who will be unfairly de-enrolled despite a continued desire and eligibility to remain in the program,”<sup>4</sup> thus harming these consumers, while also imposing burdens on the Universal Service Administrative Company (“USAC”), as well as Lifeline service providers, without furthering the Commission’s objective of reducing Lifeline program waste.

There can be no doubt that the Commission’s decision to reduce the non-usage period by 50 percent “will cause millions of qualified low-income households to lose their Lifeline-supported service.”<sup>5</sup> Many consumers who depend on Lifeline service are among society’s most vulnerable groups,<sup>6</sup> and forcing them to navigate the Lifeline application process to re-enroll in the program will impose an undue hardship<sup>7</sup> that will be multiplied by the fact that these consumers, during the period of their de-enrollment, may lose access to non-911 emergency services and other essential services, as well as their ability “to contact family members, healthcare providers, and current and potential employers ....”<sup>8</sup>

The truncated non-usage period will also be burdensome for Lifeline service providers, especially for smaller carriers such as Airvoice, “driving up ... service provider costs”<sup>9</sup> by unnecessarily forcing service providers to process large numbers of re-enrollment applications.<sup>10</sup> Airvoice, with a workforce of 35 employees (in contrast to the thousands of people employed by the major carriers), has limited resources to cope with the customer inquiries and increased churn rates that will be generated by the shortened non-usage period. Airvoice also agrees with the Joint Lifeline ETC Petitioners that these added burdens “will disincentivize [carriers] from offering advanced services and handsets.”<sup>11</sup>

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not used the service. In this way, the subscriber will have a total of 45 days in which to demonstrate ‘usage.’” *Lifeline Modernization Order*, 31 FCC Rcd at 4115 (para. 415).

<sup>4</sup> Ex Parte Letter from John J. Heitman & Joshua Guyan, Counsel for the Joint Lifeline ETC Petitioners, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42, *et al.* (filed Sept. 15, 2016) (“Joint Lifeline ETC Petitioners Letter”) (supporting the TracFone Motion), at 1.

<sup>5</sup> TracFone Motion at 5.

<sup>6</sup> *Id.* at 6.

<sup>7</sup> TracFone Petition at 24.

<sup>8</sup> TracFone Motion at 6.

<sup>9</sup> Sprint Comments on Petitions for Reconsideration, WC Docket No. 11-42, *et al.* (filed July 29, 2016) (“Sprint Comments”), at 6.

<sup>10</sup> Joint Lifeline ETC Petitioners Letter at 2 (citing TracFone estimates that “the shortened non-usage period will triple the number of Lifeline subscribers that are de-enrolled for non-usage but then subsequently re-enroll”). Sprint explains that “[c]hanging the inactivity rule will require additional [carrier] investment in customer education, and will add to the confusion and upset customers ... when their Lifeline service is about to be or has been terminated.” Sprint Comments at 7.

<sup>11</sup> Joint Lifeline ETC Petitioners Letter at 2.

Further, these burdens will be imposed “at a time when [carriers] are making numerous and complex changes to their Lifeline operations, and communicating these many changes to their Lifeline subscribers.”<sup>12</sup> In addition, USAC “will have to allocate resources to handle millions of re-enrollment applications,”<sup>13</sup> straining its limited resources at a time during which it already is burdened with the task of developing and implementing the National Lifeline Eligibility Verifier.<sup>14</sup>

The reduction in the non-usage period is not necessary because there is no evidence that it will serve to reduce waste in the Lifeline program or conserve Universal Service Fund (“USF”) resources. The Commission made no showing in the *Lifeline Modernization Order* that the existing 60-day non-usage rule “no longer balances the interests of subscribers with the risks associated with potential program waste ....”<sup>15</sup> In fact, the 60-day rule has been “adopted and successfully implemented by several state commissions.”<sup>16</sup>

Instead, the Commission noted that reduction of the non-usage period is appropriate as a consequence of the Commission’s decision to add outbound text messaging to the list of services that can be used to show usage by Lifeline subscribers.<sup>17</sup> As TracFone explains, however, “nothing in the record indicates the existence of any correlation between availability of texting and the reasons for non-usage by Lifeline customers.”<sup>18</sup>

Moreover, it is unlikely that the reduced non-usage period will guard against waste or help to preserve USF resources. As TracFone explains, any concern regarding the diminution of universal service resources “is contradicted by the very high re-enrollment data placed in the record ....”<sup>19</sup> Sprint also indicates that, of those Sprint customers who had no activity for a 30-day period, 38 percent resumed Lifeline usage within the subsequent 15 days and 66 percent within the following 60 days.<sup>20</sup>

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<sup>12</sup> *Id.*

<sup>13</sup> TracFone Motion at 7.

<sup>14</sup> *Id.* The Commission, for example, has directed USAC “to seek the most cost effective and efficient means to incorporate electronic eligibility certification into the National Verifier wherever feasible.” *Lifeline Modernization Order*, 31 FCC Rcd at 4011 (para. 135).

<sup>15</sup> TracFone Motion at 3.

<sup>16</sup> *Id.* (footnote omitted).

<sup>17</sup> *Lifeline Modernization Order*, 31 FCC Rcd at 4115 (para. 415).

<sup>18</sup> TracFone Motion at 4. Non-usage typically occurs for reasons that include a customer’s incapacity, lost, misplaced, or broken handsets, and a customer’s hospitalization. *See id.*; Sprint Comments at 6.

<sup>19</sup> TracFone Motion at 7. TracFone explains that “most Lifeline customers de-enrolled for temporary non-usage intend to continue to use the service and re-apply for enrollment ....” *Id.* at 7-8.

<sup>20</sup> Sprint Comments at 6. *See* Letter from Mitchell F. Brecher, Counsel to TracFone, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42, *et al.* (filed Sept. 20, 2016), at 2 (indicating that “[m]ost Lifeline

For all these reasons, Airvoice respectfully urges the Commission to grant the TracFone Motion, thereby avoiding harm to Lifeline consumers during the pendency of the Commission's consideration of the TracFone Petition and other petitions seeking reconsideration of the *Lifeline Modernization Order*.

Respectfully submitted,



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households who do not use their service for thirty days do use the service between days 31 and 60. Specifically, ... 72 percent of Lifeline households [receiving service from TracFone in the first quarter of 2016] who did not use their service for 30 days used their service within the next 30 days (i.e., within 60 days).”).