

<p>Gary A. Dodge, #0897 HATCH, JAMES & DODGE 10 West Broadway, Suite 400 Salt Lake City, UT 84101 Telephone: (801) 363-6363 Facsimile: (801) 363-6666 Email: gdodge@hjdllaw.com</p> <p>Attorneys for TracFone Wireless, Inc.</p>	<p>Mitchell F. Brecher GREENBERG TRAURIG, LLP 2101 L Street, NW, Suite 1000 Washington, DC 20037 Telephone: (202) 331-3100 Facsimile: (202) 261-0152 Email: brecher@gtlaw.com</p>
--	---

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>In the Matter of the Resolution of Certain Issues Related to the Designation of a Common Carrier as an Eligible Telecommunications Carrier</p>	<p align="center">Docket No. 10-2528-01</p> <p align="center">TRACFONE WIRELESS, INC.'S REPLY COMMENTS TO INITIAL PROPOSALS</p>
---	--

Pursuant to the Commission’s Order issued May 2, 2011, TracFone Wireless, Inc. (“TracFone”) files its Reply Comments to the parties’ April 28, 2011 filings regarding the issues being addressed by the Commission in this proceeding and its comments on the proposal of the Division of Public Utilities (“Division”) that a committee be established to recommend a final proposal on the areas addressed in this proceeding.

REPLY COMMENTS

In its Initial Proposal, filed April 28, 2011, TracFone stated that it supports the Commission’s efforts to make changes to its rules to address the verification of Lifeline customers’ eligibility, as well as other issues related to Lifeline service. However, TracFone urged the Commission to delay any modifications to its rules governing Lifeline because there is a pending Federal Communications Commission (“FCC”)

proceeding on virtually identical issues.¹ TracFone further recommended that if the Commission does move forward with this proceeding, then any findings or rules adopted by this Commission in this proceeding should apply to all ETCs, not only those that use any specific business model, such as a prepaid model or a free service model. TracFone also stated that the Commission should require the establishment of a state database funded by the State Universal Service Fund (“USF”) to which all ETCs would have access. Finally, TracFone noted in its Initial Proposal that the Commission should apply the federal requirements governing outreach and advertising, which provide, in part that states and carriers should coordinate their outreach efforts with governmental agencies that administer any of the relevant government assistance programs.² By these Reply Comments, TracFone addresses certain positions set forth in the initial proposals filed by other parties in this proceeding.

I. A Committee Should Be Established to Recommend a Final Proposal for This Proceeding.

The Division recommends that “a committee be established to research, investigate, discuss and recommend a final proposal to the areas addressed” in this proceeding.³ TracFone agrees that the establishment of a committee could be useful in crafting a final proposal regarding revisions to the Lifeline program. TracFone suggests that any such committee include representatives of all parties that may be impacted by revisions to the Commission’s rules governing Lifeline, including wireless and wireline

¹ See Lifeline and Link Up Reform and Modernization, et al., Notice of Proposed Rulemaking, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, FCC 11-32, released March 4, 2011.

² See Lifeline and Link-Up, 19 FCC Rcd 8302, ¶¶ 44-49 (2004).

³ Division Comments, at 4.

ETCs, ETCs offering free, prepaid, and billed Lifeline services, relevant government agencies, consumer advocacy groups, and low-income consumers. A review of the comments filed April 28, 2011, indicates that the parties do not agree on all issues. Therefore, a final proposal from the committee may include some issues upon which all members of the committee do not agree. As such, all members of the committee must have the opportunity to advise the Commission regarding their positions on issues for which there is no consensus. Nevertheless, TracFone believes that establishing a committee to investigate and develop agreed upon workable solutions for at least some of the issues raised in this proceeding will aid the Commission in efficiently determining how to revise its Lifeline rules.

II. Until New Rules Are Adopted, the Commission Should Continue to Apply Its Current Rules Governing Initial Certification of Lifeline Eligibility.

CenturyLink and the Office of Consumer Services (“OCS”) propose that the Commission allow Lifeline applicants to self-certify that they are eligible to receive Lifeline benefits, but incorporate a requirement that that applicants provide documentation proving their eligibility.⁴ A requirement that a Lifeline applicant provide documentation of eligibility, changes the self-certification permitted by the Commission’s rules to full certification.

Commission Rule R746-341-3 establishes procedures for determining the eligibility of applicants for Lifeline-supported services. That rule requires each ETC to provide Lifeline service to any applicant who self-certifies his or her eligibility under penalty of perjury. There is no requirement that the Lifeline applicant submit documentation. In a recent order related to TracFone’s designation as an ETC, the

⁴ CenturyLink Initial Proposal, at 1; OCS Initial Proposal, at 2.

Commission stated: “[a]s outlined in R746-341-3, qualified applicants for pre-paid wireless Lifeline service may receive such service initially based on their own self-certification.”⁵

TracFone recommends that the Commission continue to apply its rules governing initial certification while this proceeding is pending. TracFone, as a Lifeline provider in more than 30 states, has had experience with requiring Lifeline applicants to provide proof of eligibility. For example, Lifeline applicants in Missouri are subject to full certification (*i.e.*, applicants must provide documentation proving participation in a qualified public assistance program) as opposed to self-certification (*i.e.*, applicants must self-certify under penalty of perjury that they participate in a qualified public assistance program). In TracFone’s experience, full certification is extremely burdensome to applicants who often have difficulty locating and sending the required documentation to the ETC if they do not have access to a facsimile machine, scanner or copier. Full certification is also burdensome to the ETCs that are required to collect and review the documentation. As TracFone explained in its Initial Proposal filed in this proceeding, allowing ETCs to have access to an electronic database is far less burdensome than full certification and ensures that only qualified applicants are enrolled in Lifeline.

III. Automatic Enrollment Procedures Should Not Favor Any Type of Provider or Technology.

The Salt Lake Community Action Program (“SLCAP”) recommends that an automatic Lifeline process be used by all Lifeline qualifying programs. Under SLCAP’s

⁵ In the Matter of the Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Limited Purpose of Offering Lifeline Service to Qualified Households, Order on Reconsideration, Docket No. 09-2511-01 (March 9, 2011), at 11.

proposal, the qualifying programs would complete the certification of eligibility for the Lifeline applicants, compile a list of qualified Lifeline applicants, and submit the list to the responsible agency which would ensure that there is no duplication of service and notify the selected ETCs of the applicants' eligibility.⁶

TracFone supports the concept of automatic enrollment in Lifeline as a way to increase Lifeline participation among qualified low-income households and to simplify and expedite the enrollment process, both for ETCs and for consumers. However, it is imperative that any automatic enrollment system be implemented in a manner which is competitively neutral such that it does not favor any ETCs or category of ETCs, including, for example, incumbent LECs. An automatic enrollment process that does not inform consumers of all their Lifeline options and afford consumers the opportunity to select from among those options or, worse, that automatically enrolls qualified customers in their existing carrier's Lifeline program (which is what Utah appears to be doing with HEAT program participants), without affording such customers an opportunity to select from among the available Lifeline programs which best meet their needs, is both discriminatory and not in the interests of those households which qualify for Lifeline assistance.

TracFone believes that an automated, rather than automatic, enrollment system, if implemented properly, would increase Lifeline enrollment without improperly favoring or disfavoring any ETC. In an automated system, individuals are given the opportunity to enroll in a Lifeline program as soon as they become eligible, for example, at the time they sign up for a qualifying benefit program such as Medicaid, the Low Income Home

⁶ SLCAP Initial Proposal, at 2-3.

Energy Assistance Program or the School Lunch Program. However, they must affirmatively elect to do so.

The agent interacting with the consumer, the notice of benefit enrollment, or the website through which the customer enrolled, should make clear that the consumer is not required to select his or her current telephone service provider as the Lifeline provider. Information about all the Lifeline providers servicing the area, the benefit packages they offer, and provider contact information should be provided. It should be clear that consumers need not select a Lifeline provider at that time, and that they may wait until a future time to select a Lifeline program in which to enroll.

IV. The Establishment of a State Database Funded by the State USF to Which All ETCs Would Have Access, Will Minimize Fraud and the Costs of Verification.

TracFone, as well as the other parties, support the establishment of a state database that can be used to initially certify Lifeline applicants' eligibility and verify Lifeline customers' continued eligibility on an annual basis. As TracFone explained in its Initial Comments, such a database should be, and is legally required to be, funded by the state USF. Thus, TracFone does not support CenturyLink's suggestion that a per customer fee be charged for initial and annual verification.⁷

TracFone recommends that Lifeline applicants submit applications directly to ETCs, rather than to a state agency, as CenturyLink and the Division propose.⁸ Upon receipt of a Lifeline application, an ETC could access the state database and immediately determine whether Lifeline the applicant qualifies for Lifeline support. Moreover, as TracFone explained in its Initial Proposal, privacy concerns could be allayed by limiting

⁷ CenturyLink Initial Proposal, at 2; Division Initial Proposal, at 3.

⁸ Id. at 2-3.

database access to indicating to ETCs whether applicants are Lifeline-eligible with a yes or no response, and requiring ETCs to maintain the confidentiality of that response. A state database, which would indicate to ETCs whether the applicant is a participant in a Lifeline-qualifying program, as well as whether the applicant is already receiving Lifeline from another ETC, would minimize fraud due to duplicate claims.⁹ Providing ETCs with real-time uniform access to a state database, as opposed to having consumers apply for Lifeline with a state agency, will streamline the Lifeline application and approval process, enable eligible consumers to receive Lifeline more quickly, and decrease the administrative costs borne by the responsible agency. Furthermore, by minimizing the initial certification and annual verification costs to the responsible agency, the funding needs of the state USF can be contained.

Respectfully submitted,

HATCH, JAMES & DODGE

/s/ _____
Gary A. Dodge

GREENBERG TRAURIG, LLP

/s/ _____
Mitchell F. Brecher

Attorneys for TracFone Wireless, Inc.

May 12, 2011

⁹ TracFone maintains a database of all of its Lifeline customers' addresses to ensure that there is only one Lifeline benefit residential address. All ETCs, like TracFone, can maintain and check their own customer databases to prevent internal "double-dipping." A state database is not needed to minimize this type of fraud.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 12th day of May, 2011, on the following:

<p>Patricia Schmid Assistant Attorney General Heber Wells Building 160 East 300 South, 5th Floor Salt Lake City, Utah 84114 pschmid@utah.gov</p>	<p>Sonya Martinez SLCAP 764 South 200 West Salt Lake City, Utah 84101 smartinez@slcap.org</p>
<p>Paul Proctor Assistant Attorney General Heber Wells Building 160 East 300 South, 5th Floor Salt Lake City, Utah 84114-0857 pproctor@utah.gov</p>	<p>Kathy Kinsman Assistant Attorney General Utah Department of Community & Culture 160 East 300 South, 5th Floor P.O. Box 140857 Salt Lake City, Utah 84114-0857 kinsman@utah.gov</p>
<p>Michele Beck Cheryl Murray Eric Orton Utah Office of Consumer Services 160 East 300 South, 2nd Floor P.O. Box 146782 Salt Lake City, Utah 84114-6782 mbeck@utah.gov cmurray@utah.gov eorton@utah.gov</p>	<p>Sherman Roquero Utah Department of Community & Culture 324 South State St., Suite 500 Salt Lake City, Utah 84114-9302 sroquero@utah.gov</p>
<p>William Duncan Casey Coleman Utah Division of Public Utilities 160 East 300 South, 4th Floor Salt Lake City, Utah 84114 wduncan@utah.gov ccoleman@utah.gov</p>	<p>Timothy J. Funk Crossroads Urban Center 347 South 400 East Salt Lake City, Utah 84111 funk@crossroads-u-c.org</p>
<p>Stephen F. Mecham Callister Nebeker & McCullough 10 East South Temple, Suite 900 Salt Lake City, Utah 84133 sfmecham@cnmlaw.com</p>	<p>Sheila Stickel President & Executive Director Advocates for Universal Access, LLC P.O. Box 21914 Seattle, Washington 98111 Sheila@advocatesua.com</p>

<p>Peter Lurie Elaine Divelbliss Virgin Mobile USA 10 Independence Blvd. Warren, New Jersey 07059 Peter.lurie@virginmobileusa.com Elaine.Divelbliss@virginmobileusa.com</p>	<p>Lance J.M. Steinhart Lance J.M. Steinhart, P.C. 1720 Windward Concourse, Suite 115 Alpharetta, Georgia 30005 (770) 232-9200 (Phone) (770) 232-9208 (Fax) Email: lsteinhart@telecomcounsel.com</p>
<p>Alex M. Duarte Qwest Law Department 310 SW Park Avenue, 11th Floor Portland, OR 97205 503-242-5623 (office) 503-242-8589 (fax) Alex.Duarte@qwest.com</p>	<p>Brett L. Tolman Ray Quinney & Nebeker P.C. 36 South State Street, Suite 1400 Salt Lake City, Utah 84111 BTolman@rqn.com</p>
<p>James L. Messenger LeClairRyan One International Place, Eleventh Floor Boston, Massachusetts 02110 James.Messenger@leclairryan.com</p>	<p>Eric Seguin Solix, Inc. 30 Lanidex Plaza West PO Box 685 Parsippany, NJ, 07054-0685 esequin@solixinc.com</p>

/s/ _____