



PUBLIC NOTICE

Federal Communications Commission
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DA 12-295

Release Date: February 27, 2012

COMMENT SOUGHT ON TRACFONE WIRELESS, INC. EMERGENCY PETITION FOR DECLARATORY RULING AND INTERIM RELIEF

**WC Docket Nos. 11-42, 03-109;
CC Docket No. 96-45**

Comment Date: March 9, 2012

Reply Comment Date: March 19, 2012

The Wireline Competition Bureau (Bureau) seeks comment on an Emergency Petition for Declaratory Ruling and Interim Relief filed by TracFone Wireless, Inc. (TracFone) on February 22, 2012.¹ In its petition, TracFone states that it received a letter from the Puerto Rico Telecommunications Regulatory Board (Board), directing TracFone to de-enroll, as of March 1, 2012, certain Lifeline subscribers found by the Board to be receiving duplicative Lifeline benefits.² TracFone notes that a second letter directed the company to de-enroll, as of April 1, 2012, certain Lifeline subscribers found by the Board to be receiving more than one Lifeline benefit per family unit.³ According to the petition, de-enrolled subscribers would be barred from re-enrolling in Lifeline for four months following their de-enrollment by the eligible telecommunications carrier (ETC).⁴ TracFone asserts that the Board's process for resolving duplicative Lifeline subscriptions is inconsistent with Section 254 of the Communications Act of 1934, as amended, as well as the Commission's *Lifeline Reform Order*.⁵ TracFone requests that

¹ *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service*, Emergency Petition for Declaratory Ruling and Interim Relief, WC Dkt. No. 11-42 *et al.* (Feb. 22, 2012) (*TracFone Puerto Rico Duplicates Petition*).

² *Id.* at 2-3 and Attachment (Attach.) 1.

³ *Id.* at Attach. 2.

⁴ *Id.* at 4 n.3.

⁵ See generally *id.* (citing 47 U.S.C. § 254(b)(3); *Lifeline Reform and Modernization et al.*, WC Dkt. No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (*Lifeline Reform Order*); *Lifeline Reform and Modernization et al.*, WC Dkt. No. 11-42 *et al.*, Report and Order, 26 FCC Rcd 9022 (2011) (*2011 Duplicative Program Payments Order*).

the Commission issue an order concluding that the Board's directives to TracFone and other ETCs are unlawful, and the Commission should preempt the Board's duplicate resolution process.⁶

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Because the Board's de-enrollment procedures will become effective on March 1 and April 1, respectively, the Bureau adopts an expedited comment period for this proceeding. All comments are to reference **WC Docket Nos. 11-42, 03-109, and CC Docket No. 96-45** and may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS) or (2) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, www.bcpiweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Jonathan Lechter, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B438, Washington, D.C. 20554; e-mail: Jonathan.Lechter@fcc.gov;
- (3) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A452, Washington, D.C. 20554; e-mail: Charles.Tyler@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-

⁶ *Id.* at 10.

A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpiweb.com.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁷ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.⁸ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.⁹

For further information, please contact Jonathan Lechter, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484.

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⁷ 47 C.F.R. §§ 1.1200 *et seq.*

⁸ *See* 47 C.F.R. § 1.1206(b)(2).

⁹ 47 C.F.R. § 1.1206(b).