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## Public Service Commission

November 13, 2009

### VIA ELECTRONIC FILING

The Honorable Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: WC Docket No. 03-109**

Dear Ms. Dortch:

Forwarded herewith are joint comments of the Florida Public Service Commission and the Florida Office of Public Counsel in the above docket with regard to lifeline and link-up.

Bob Casey at (850)-413-6974 is the primary staff contact on these comments.

Sincerely,

Cindy B. Miller  
Senior Attorney

CBM:wt

cc: Brad Ramsay, NARUC  
Best Copy and Printing, Inc.  
Jamie Susskind, FCC  
Antoinette Stevens, FCC

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of:

Lifeline and Link-Up

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WC Docket No. 03-109

**JOINT COMMENTS OF  
THE FLORIDA PUBLIC SERVICE COMMISSION  
AND  
THE FLORIDA OFFICE OF PUBLIC COUNSEL**

**FLORIDA PUBLIC SERVICE COMMISSION**

CHAIRMAN MATTHEW M. CARTER II  
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COMMISSIONER DAVID E. KLEMENT

**FLORIDA OFFICE OF PUBLIC COUNSEL**

PUBLIC COUNSEL J.R. KELLY

November 13, 2009

## **INTRODUCTION AND SUMMARY**

The Florida Public Service Commission (FPSC) and the Florida Office of Public Counsel (Florida Joint Commenters) submit these comments in response to the Public Notice released on October 21, 2009. In this Public Notice (DA 09-2257), the Federal Communications Commission (FCC) seeks comment on the provision of Lifeline service to residents of group living facilities such as homeless shelters, nursing homes, assisted-living facilities, apartment buildings, trailer-home communities, halfway houses, and group homes. Specifically, the FCC is seeking comment on:

- A. The effects of the one-per-household rule for Lifeline support in the context of group living facilities;
- B. Ways that eligible telecommunication carriers (ETCs) may offer Lifeline service to qualified residents of group living facilities while continuing to comply with the one-per-household rule; and,
- C. Whether and how ETCs that provide Lifeline-supported service to homeless individuals who do not use shelters could comply with the one-per-household rule.

In order to meet the needs of residents of group living facilities in Florida, the Florida Joint Commenters encourage the FCC to:

- 1. Expand the definition of “household” to include residents of group living facilities.
- 2. Put appropriate safeguards in place if the definition of “household” is expanded in order to protect the universal service program from waste, fraud, and abuse.
- 3. Keep the burden of validating Lifeline customer eligibility for reimbursement from the universal service fund (USF) with the ETC providing Lifeline Service to residents of the group living facility.

4. Require ETCs to maintain Lifeline eligibility documentation of all Lifeline customers (including residents of group living facilities) as required by 47 C.F.R. §54.417.
5. Require TracFone to implement a 60-day inactivity check of Lifeline customers to ensure the USF Fund is only reimbursing TracFone for active Lifeline customers.
6. Define the terms homeless, homeless shelters, and other group living facilities.

**A. THE EFFECTS OF THE ONE-PER-HOUSEHOLD RULE FOR LIFELINE SUPPORT IN THE CONTEXT OF GROUP LIVING FACILITIES**

The FCC historically has allowed only one Lifeline credit per household. By FCC 97-157,<sup>1</sup> the FCC stated "Under either plan, qualifying subscribers may receive assistance for a single telephone line in their principal residence." FCC 04-87<sup>2</sup> stated "Lifeline provides low-income consumers with discounts of up to \$10.00 off of the monthly cost of telephone service for a single telephone line in their principal residence." In FCC 07-148,<sup>3</sup> the FCC affirmed that "Lifeline provides low-income consumers with discounts off the monthly cost of telephone service for a single telephone line in their principal residence."

The problem which occurs with providing wireless Lifeline service such as TracFone to residents of group living facilities is that the first resident who submits an application and qualifies for Lifeline service will receive it. Additional residents of the group home using the same address would be turned down because one Lifeline credit is already being credited at that address. The FCC

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<sup>1</sup> In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, Released: May 8, 1997, ¶341.

<sup>2</sup> In the Matter of Lifeline and Link-Up, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, Released: April 29, 2004, ¶4.

<sup>3</sup> In the Matter of VCI Company Apparent Liability for Forfeiture File No. EB-07-IH-3985, NAL/Acct. No. 200732080033, FRN No. 0015783004, Notice of apparent liability for Forfeiture and Order, Released: August 15, 2007, ¶3.

recognized the “one-per-household” problem during relief efforts for victims of Hurricane Katrina.

By Order FCC 05-178, the FCC stated:

Thousands of people left their homes because of the hurricane. Many of these people are in temporary shelters or in the process of finding interim housing and may be without a permanent home or employment for a period of time. To facilitate the access of evacuees and other displaced persons to telecommunications services, any person approved for individual FEMA housing assistance or determined by FEMA to be eligible for such individual housing assistance relating to the hurricane will be eligible for federal Lifeline support for a free wireless handset and a package of at least 300 minutes of use, not to exceed \$130 per household, until March 1, 2006. (¶11)

...Such support will help consumers reconnect to the telecommunications network as the disaster-struck areas are rebuilt. For purposes of this Order, we define “household” as one adult and his/her dependants, living together in the same residence. We recognize that many families that normally live together as one household have been separated due to the hurricane and the evacuation process and may represent more than one household for this temporary Lifeline support. Our intent in providing this support is to assist hurricane victims, regardless of whether they are in an intact household, separated from family temporarily, or otherwise. To work within the parameters of the existing program, we will order this temporary support available to ETCs providing the supported wireless service consumer offering. We note that to receive the temporary support, wireless carriers cannot require consumers to enter into a long-term contract or require service beyond 300 minutes or March 1, 2006, whichever is shorter. (¶12) (emphasis added)

Based on the data collected and reported by the local homeless coalitions in Florida, a total of 57,687 persons were identified as homeless in Florida on a one day count in 2009. These persons are living on the streets, or housed in emergency shelter facilities. In 2009, over 50.4% of the persons who are homeless in Florida are experiencing homelessness for the first time ever.<sup>4</sup> Florida Joint Commenters believe that homeless persons in Florida need communication services in order to stay in touch with family, have access to emergency services, and have the ability to make living, housing, and work arrangements.

**B. WAYS THAT ETCs MAY OFFER LIFELINE SERVICE TO QUALIFIED RESIDENTS OF GROUP LIVING FACILITIES WHILE CONTINUING TO COMPLY WITH THE ONE-PER-HOUSEHOLD RULE**

Section 254(c) of the Telecom Act provides that universal service is an evolving level of telecommunications services and that advances in telecommunications and information technologies and services should be taken into account. At the time federal Lifeline rules were put in place, no one could have anticipated that Lifeline-eligible consumers would have the option to receive a free wireless handset and sixty-eight minutes of free airtime each month as offered by TracFone in Florida. Florida Joint Commenters believe that this is an example of the evolving level of telecommunications services discussed in Section 254 and that the FCC's definition of "household" should be expanded to include residents of group living facilities.

Florida Joint Commenters also believe that appropriate safeguards need to be in place to protect the integrity of the USF. Things such as "double-dipping" could occur if Lifeline customers receive more than one TracFone wireless phone or receive Lifeline credits on both a wireline phone and a TracFone wireless phone.

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<sup>4</sup> Homeless Conditions in Florida, Annual Report, Fiscal Year 2008-2009, Department of Children and Families, Office on Homelessness, June 30, 2009.

The only way to truly avoid double dipping would be to implement a national database of Lifeline participants as TracFone recommended in its November 13, 2008 comments to the FCC's September 12, 2008 Notice of Inquiry (NOI).<sup>5</sup> The FPSC does not agree with TracFone's proposal in its comments to allow all ETCs access to a Lifeline participant national database. The FPSC's December 15, 2009 comments to the FCC's NOI stated that a national database of Lifeline participants accessible by all ETCs would contradict the intent of Florida's Lifeline applicant confidentiality state law. However, a national database of Lifeline participants maintained by the USF administrator under strict confidentiality provisions may be an acceptable alternative.

**C. WHETHER AND HOW ETCs THAT PROVIDE LIFELINE-SUPPORTED SERVICE TO HOMELESS INDIVIDUALS WHO DO NOT USE SHELTERS COULD COMPLY WITH THE ONE-PER-HOUSEHOLD RULE**

TracFone's database presently has the ability to detect whether a Lifeline applicant already has a TracFone phone by using the applicant's address. Residents of shelters are transient and may relocate to a different shelter in a different city at any time. Homeless persons may also be living on the street or in their car and use a General Delivery address at the post office. These persons would have to be evaluated based upon personal information included on the Lifeline application, not by address. TracFone's database presently collects the birth date and last four numbers of an applicant's social security number. This information should be able to prevent Lifeline-eligible persons from receiving two TracFone phones when TracFone cross checks the birth date and social security of the applicant. The only way to prevent a person from receiving both a landline and a wireless Lifeline credit would be to have a national database that could cross reference Lifeline customers of different companies.

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<sup>5</sup> In the Matter of Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight, WC Docket No. 05-195, Notice of Inquiry, Released: September 12, 2008, FCC 08-189.

**SAFEGUARDS**

TracFone's petition suggests that Lifeline applicants residing in homeless shelters should certify on their enrollment forms under penalty of perjury that the address listed is a shelter. TracFone uses a sophisticated postal address directory to confirm TracFone applicant addresses during its application process. The applicant's date of birth and last four digits of their social security number are then matched against another software program to confirm that the applicant's information is correct. TracFone's database may need to be upgraded to have the ability to identify a group-living facility by address to allow multiple Lifeline-eligible residents of homeless shelters to obtain Lifeline service. The Florida Joint Commenters believe that residents of homeless shelters should not have the burden of additional eligibility requirements placed on them. Lifeline-eligible applicants should have the same requirements whether they live in a group-living facility or not.

Florida's Lifeline program allows self-certification for program-based criteria and requires applicants to certify under penalty of perjury that they are a current recipient of an eligible program and that they will notify their Lifeline provider when they are no longer participating in any of the qualifying programs. TracFone Lifeline applicants who prefer to use income-based criteria for qualification in the Florida Lifeline program are certified by the Florida Office of Public Counsel (FOPC). As required by FCC rule, the FOPC requires documentation of income eligibility to protect against waste, fraud, and abuse and to ensure that only qualified individuals receive Lifeline/Link-Up assistance. Homeless persons with no income can still be qualified using the income criteria by certifying that they have no income.

Another safeguard to protect the integrity of the USF would be to require TracFone to contact any Lifeline customer with no phone activity during a sixty-day period to determine whether the consumer is still an active Lifeline customer. If no response is received, the phone should be deactivated and TracFone should cease including that customer when requesting reimbursement from



the Universal Service Administrative Company. This process is currently being followed in Florida. If this protocol is not followed, a TracFone customer could stop using the TracFone phone after 30 or 60 days without notifying TracFone, and TracFone would continue to automatically issue that customer additional minutes each month and count that person as a customer for USF reimbursement purposes for months or even years if only random sampling is used for annual verification.

If the FCC clarifies its one-per-household rule to include homeless shelters, it will need to define some terms. What is the definition of a homeless person? What should be considered a homeless shelter? What is a group living facility? Should a homeless shelter be considered if it is a public not-for-profit shelter, a church, or a government funded facility? Are persons homeless if they live in a motel, hotel, travel trailer park, camping ground, car, public space, abandoned building, bus or train station, emergency or transitional shelter? What if a person temporarily shares the housing of friends or family? The official federal definition of homeless<sup>6</sup> is contained in Title 42, Chapter 119, Subchapter I, Section 113.02, of the United States Code which defines homeless as:

1. an individual who lacks a fixed, regular, and adequate nighttime residence; and
2. an individual who has a primary nighttime residence that is —
  - A. a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
  - B. an institution that provides a temporary residence for individuals intended to be institutionalized; or
  - C. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

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<sup>6</sup> <http://www.hud.gov/homeless/definition.cfm>

Group living facilities such as nursing homes, assisted-living facilities, apartment buildings, trailer-home communities, halfway houses, and group homes may not have the same problems as a homeless shelter. As explained in TracFone's July 17 petition,<sup>7</sup> "In the case of multifamily dwellings such as apartment buildings, or even nursing homes and assisted living facilities, this is not an impediment since the street address may be the same but the apartment number or room number will be different." If a group living facility does not differentiate addresses of residents, TracFone has the ability to override its database and manually note that the facility address is a group living facility with multiple residents who may be eligible for Lifeline.

## CONCLUSION

The need for Lifeline assistance continues to grow in Florida. Florida experienced a 40.2% increase in persons participating in the Supplemental Nutrition Assistance (formerly Food Stamp) program from July 2008 to July 2009<sup>8</sup> for a total of 2,160,887 recipients as of July 2009. In February 2009, there were 46,931 filings for foreclosure in Florida, up by 70% over February 2008 filings. From May 2008 to May 2009, the Temporary Assistance to Needy Families program in Florida experienced a 13.6% rise in families needing emergency cash assistance.<sup>9</sup>

The Florida Joint Commenters continue to support the original intent of Lifeline and Link-Up, which is to help low-income households obtain and maintain affordable telephone service. The low-income support mechanism was designed to ensure that quality telecommunications services are available to all low-income consumers at just, reasonable, and affordable rates. Homeless persons in Florida need communication services in order to stay in touch with family, have access to emergency services, and have the ability to make living, housing, and work arrangements. In order to meet the

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<sup>7</sup> Letter from Greenberg Traurig, July 17, 2009, WC Docket No. 03-109.

<sup>8</sup> U.S. Department of Agriculture Report, Supplemental Nutrition Assistance Program: Number of Persons Participating, Data as of September 28, 2009.

<sup>9</sup> Homeless Conditions in Florida, Annual Report, Fiscal Year 2008-2009, Department of Children and Families, Office on Homelessness, June 30, 2009.

needs of residents of group living facilities in Florida, the Florida Joint Commenters encourage the FCC to consider implementation of the proposed changes to the program administration noted in these comments.

Respectfully submitted,

/ s /

Matthew M. Carter II, Chairman

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Respectfully submitted,

/ s /

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DATED: November 13, 2009