verizon

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May 3, 2024

Shonda Green, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 600
Boston, MA 02118-6500

Re: D.T.C. 13-4 – Lifeline

Dear Secretary Green:

Enclosed for filing in the above-captioned proceeding are the Comments of Verizon Regarding Proposed Requirements.

Thank you for your attention to this matter.

Sincerely,

Alexander W. Moore

Enclosure

cc: Service List

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Investigation by the Department on its Own Motion into the Implementation in Massachusetts of the Federal Communication Commission's Order Reforming the Lifeline Program	)	D.T.C. 13-4

COMMENTS OF VERIZON
REGARDING PROPOSED REQUIREMENTS

Verizon New England Inc., d/b/a Verizon Massachusetts ("Verizon MA") and TracFone Wireless, Inc. ("TracFone") (collectively, "Verizon") hereby respond to the Notice of Proposed Requirements and Further Request for Comment issued on April 3, 2024 ("Notice"). Verizon appreciates and supports the proposals in the Notice that would streamline the filing requirements on ETCs. A number of the changes proposed to the existing Massachusetts Lifeline Requirements, however, would impose significant costs on service providers, are unnecessary in our highly competitive market in Massachusetts and would be only marginally beneficial to the Department. Verizon explains in detail below why the Department should reject those changes and then responds to the questions posed in the Notice.

I. Event-based reporting requirements

A. The proposed reporting of proceedings is far too broad.

The proposed expansion of the obligation to notify the Department of investigations and court proceedings would impose substantial new costs on ETCs but would not provide additional useful information to the Department for its management of the Lifeline program.

The Department's existing Lifeline Requirements require ETCs to notify the Department if a court or a government agency enters a "finding, civil judgment, or settlement" against the ETC or its executives or senior managers related to the Lifeline program or convicts any of them of a crime related to a dishonest act, false statement or misuse of the Lifeline program. The intent of the rule was to ensure the Department was aware of actual findings of misconduct of an ETC related to the Lifeline program or suitability of the provider to be an ETC.

Proposed Rules A(5)(c) and (d) would expand this to require ETCs to report not only actual decisions entered by an agency or judgments entered by a court but also the mere opening of an investigation or action, even if the proceeding has no basis or later results in a decision in favor of the ETC. Reportable events would include not only proceedings related to the Lifeline program or the honesty of the ETC but all proceedings on any issue or subject matter. As if that is not broad enough, the requirement as drafted would also include any proceeding, on any issue, opened against not just the ETC or its executives or senior managers but also to any affiliate of the ETC, and to ***its*** executives and managers as well.

The Department should reject this unprecedented, massive expansion of the notification obligation and the resulting regulatory burden on ETCs. First, the proposed rules would impose substantial new costs on ETCs. Verizon, for one, has hundreds of affiliates with thousands of executives and senior managers, and those affiliates offer many kinds of services across the country and around the world. A requirement to report to the Department every court case and every government proceeding involving any Verizon company, on any matter in any location, would result in an enormous number of filings and impose substantial costs on Verizon. No other state agency imposes a reporting obligation on the company that is nearly as broad. The company therefore does not have the systems, means or procedures to track and collect all of that

information in one place, and developing such capability would be extremely expensive. And that does not even begin to address the moral, legal and business issues – and costs – of requiring its managers to notify the company (so it can report to the Department) every proceeding or lawsuit that may be brought against any of them.

Second, to Verizon's knowledge, the current rules have served their function well and enable the Department to maintain the integrity of the Lifeline program in Massachusetts, and there is no need to expand the reporting requirement, or basis for it. The proposed requirements, in contrast, would inundate the Department with notices without providing any additional information relevant to management of the Lifeline program. The vast majority of proceedings concerning Verizon or its affiliates – and certainly any involving the personal lives of its employees – have no bearing on the company's performance as a Lifeline provider in Massachusetts, and the Department has not articulated any need or basis for over-collecting in this manner.

It is difficult to imagine, for example, how it would help the Department manage the Lifeline program to be notified when the spouse of a senior manager at an ETC or its affiliate files for a divorce, or when a vehicle owned by an ETC (or an affiliate or an executive or senior manager of the ETC or an affiliate) is involved in an auto accident resulting in litigation, or when a state PUC opens in investigation into pole and conduit attachment rates. A host of other matters that could be the subject of litigation or investigation – small claims cases, securities litigation, litigation over the payment terms of a supplier contract or real estate litigation – are likewise entirely irrelevant to the Lifeline program.[1] Indeed, in proceedings in this docket in

[1] Requiring wireless ETCs to report matters not related to the Lifeline program would also overstep the Department's authority under M.G.L. c. 25C, § 8, which generally prohibits the Department from regulating wireless providers but allows an exception for management of the Lifeline program.

2014, the Department agreed with Verizon that entry of judgment against an ETC in a civil suit "would not have enough of an impact on an ETC's ability to provide service,"[2] and accordingly limited the filing requirement for civil judgments "related to the Lifeline program."

The proposed requirement to report on the mere opening of a proceeding, rather than actual findings or judgments, is also overbroad and should be rejected. Proceedings can be opened and later closed without reaching any conclusions, and many proceedings ultimately result in a decision in favor of the ETC or exonerate the ETC of any alleged misconduct. Thus, the mere opening of a proceeding – long before the fact finder reaches any conclusions – is not a legitimate basis for the Department to take action against an ETC and should not be reportable. Where the party at issue is not an ETC but only an affiliate of an ETC, the connection to the ETC's performance or qualifications as a Lifeline provider in Massachusetts is even more tenuous.

B. There is no basis for requiring ETCs to notify the Department of changes to their privacy policies in order to administer the Lifeline program.

Neither the FCC's Lifeline Rules (at 47 C.F.R. §§ 54.201 et seq. and 54.400 et seq.) nor any other law requires a telephone service provider to implement a privacy policy or any particular terms of a privacy policy in order to qualify as an ETC or in connection with providing services as an ETC. Consequently, the terms of a service provider's privacy policy are immaterial to ETC status or the provision of services supported by the Lifeline discount, so there is no basis for imposing on ETCs the additional costs of notifying the Department of changes in their privacy policies as proposed in Rule A(5)(e). For the same reason, the proposed notification requirement as applied to wireless providers falls outside the Department's limited

[2] Notice of Proposed Requirements and Further Request for Comment, issued August 21, 2013 ("2013 Notice"), at 16-17.

authority over wireless service under M.G.L. c. 25C, § 8, "to administer federal programs supported by the federal Universal Service Fund, including Lifeline and Link-up programs…."

C. Reporting changes to compliance plans of affiliates is unnecessarily burdensome.

Verizon has no objection to reporting any changes to a non-facilities-based ETC's Lifeline compliance plan filed with the FCC, as provided in proposed Rule A(5)(g). A change to an ***affiliate's*** FCC compliance plan, however, has no effect on the compliance plan of the ETC itself and therefore provides no information relevant to the Department's management of the Lifeline program. Consequently, the added costs of reporting changes to the compliance plans of affiliates are unnecessary, and the Department should delete reference to affiliates in this rule.

II. **Notice of changes in rates, terms or conditions of service.**

Current Rule 7 requires wireless ETCs to notify the Department of material changes to their rates, terms or conditions of their Lifeline services at least five business days in advance. In promulgating that rule, the Department expressly rejected a 30-day notice period, finding that it "may not be necessary, and … that five business days' notice for material changes … is appropriate…."[3] The Notice does not explain how the current rule may have proven to be deficient in practice, and Verizon is not aware of any basis for finding that 5 days' notice to the Department is no longer sufficient, or that 30 days' prior notice to customers is necessary. (Nor is Verizon aware of any basis for removing the "material" limitation and requiring notice of even immaterial changes.) There is no need for any Department regulation dictating the amount of notice ETCs must provide their customers regarding changes in Lifeline rates or services. The market is more competitive than ever, and the likelihood of losing customers to other carriers is ample incentive for ETCs to notify their customers reasonably in advance of changes in rates or

[3] 2013 Notice at 8.

service. Yet the proposed 30 days' notice requirement would revert wireless ETCs to a form of regulation similar to the traditional, heightened regulation that applied to the old, non-competitive landline telephone industry under M.G.L. c. 159, § 19, which required 30 days' prior notice (and Department approval) to effectuate changes in tariffs.

Indeed, the proposed changes to Rule 7 would impose notice requirements on wireless ETCs that no longer apply to traditional, landline providers. Under M.G.L. c. 159, § 19F, such providers may change the rates, terms and conditions of service they have posted online merely by posting the changes, with electronic notice to the Department on the same business day, and without advance notice to customers. While the statute allows the Department to require carriers to provide customers with 30 days' advance notice of a rate increase (and the Department has long done so), no such exception applies to rate decreases or to changes in the terms and conditions of service. There is no basis for Rule 7 to impose greater notice requirements on wireless ETCs than apply to landline ETCs and doing so would be inconsistent with the spirit and modernizing purpose of M.G.L. c. 159, § 19F.

The Department should therefore reject the proposed changes in Rule 7. If the Department nevertheless chooses to accept those changes, it should carve out pre-paid wireless customers from the new requirements. Those customers receive ample notice of the current rates, terms and conditions of service each time they purchase a service plan.

III. The Consumer Safeguard regulations should be limited to wireless providers.

Rule B(1) should not be expanded to apply to landline carriers, as proposed in the Notice. As the Department held in the 2013 Notice, wireline ETCs like Verizon are already obligated by the Department's *Rules and Practices Relating to Telephone Service to Residential Customers*

("Consumer Protection Rules") to work with the Department to resolve Lifeline subscriber disputes.[4]

With respect to Rule B(1)(b), Verizon MA already includes the Department's Consumer Division's contact information and information regarding the availability of the Division to resolve disputes on its customers' monthly bills and on its termination of service notices, as required by the Consumer Protection Rules.[5] Verizon MA also includes on those bills and notices a statement in Spanish and Portuguese that "This bill (or notice) is important. Translate immediately."[6] In addition, Verizon MA publishes information regarding the Department's dispute resolution process in its telephone directories, as required by the rules.[7] In 2013, the Department found that "these existing requirements adequately inform LECs' subscribers of their ability to contact the Department's Consumer Division and participate in the Department's dispute resolution process."[8] Verizon is not aware of any subsequent developments that warrant reconsideration of that finding.

IV. Questions in the Notice

1. What other registration information should be collected by the Department under Section A(2)(c)(iii)?

Verizon has no opinion on this issue.

2. For subscriber de-enrollment data, what categories of de-enrollment should the Department collect in Section (A)(3)(b)? Specifically, should the Department use the de-enrollment categories defined by the FCC in 47 C.F.R. § 54.405(e)?

Verizon is not aware of any ways in which breaking down the number of customers de-enrolled each year by category would be useful to the Department in administering the Lifeline

[4] *See* 2013 Notice at 10, note 12.
[5] *See* Consumer Protection Rules 3.6 and 5.7(e).
[6] *See id*.
[7] *See id*., Rule 2.3.
[8] 2013 Notice at 13.

program. The Notice, moreover, does not set forth any basis for adding this new requirement on ETCs. The Department should not, therefore, impose on ETCs the added costs of tracking and reporting de-enrollments at such level of detail. If the Department nevertheless decides to require ETCs to report de-enrollment data by category, then the FCC rule at 47 C.F.R. § 54.405(e) defining five bases for de-enrollment would seem to provide a rational way to break down de-enrollment data.

3. **To reduce the number of reports required by Department, could the complaint data required by Section A(4) be moved up to Section A(3), in order to consolidate reporting into one March 1 deadline?**

   Yes.

4. **How should the Department define a complaint for purposes of Section A(4)(a)? Footnote 2 of the proposed requirements currently states, "For the purposes of these Requirements, "complaint" is defined as a correspondence or a communication received by the ETC from, or on behalf of, a person that inquires about, and/or expresses dissatisfaction with, the ETC."**

   The Department should not define a complaint in the Lifeline Requirements. The current rules do not define this term, and to Verizon's knowledge, that has not led to a material discrepancy in how ETCs report complaint rates. If the Department nevertheless deems it necessary to provide guidance on the meaning of "complaint," it should adopt the federal usage. USAC and the FCC have clarified that "complaint" as used by the FCC and formerly in Form 481 means complaints filed or reported to a state or federal government agency.[9] This would be consistent with current Rule A(3)(c), which indicates that complaint reporting under Form 481 was acceptable in Massachusetts. It would also provide a more definite and efficient basis for reporting than the definition of "complaint" proposed in the Notice.

[9] *See In the Matter of Connect America Fund, ETC Annual Reports and Certifications*, FCC 17-87, WC Docket Nos. 10-90 and 14-58, Report and Order (re. July 7, 2017), ¶¶ 8-9; *see also*, Comments of TracFone Wireless Inc., dated September 12, 2014, at 3.

That definition is impractical and would impose significant costs on ETCs with little benefit to the Department. It would encompass not only complaints but also communications that merely "inquire about" an ETC. But a question from a customer – for example regarding service rates or availability, or a question regarding a bill – is not a complaint under any accepted definition of the term, and reporting on every customer "inquiry" would be a monumental and monumentally expensive task with no bearing on administration of the Lifeline program.

The proposed definition would also include any expression of dissatisfaction made by a customer to an ETC, even in the absence of any complaint to a state or federal agency. Such a broad standard would impose substantial compliance costs on Verizon and other ETCs to: (1) develop databases, systems and procedures to track such "complaints" made to the company; and (2) train thousands of customer service representatives to distinguish between a customer complaint and a customer inquiry, which would often involve judgment calls, and to create a record of the complaint for reporting purposes. Conversely, it is difficult to see how the rate at which Lifeline customers contact Verizon with a concern about some aspect of service would have any policy ramifications for administration of the Lifeline program in Massachusetts. No other state in Verizon MA's ILEC footprint even requires ETCs to report the number or rate of complaints, indicating that they do not find such data useful. Applying a broad definition of "complaint" in Massachusetts is even less likely to yield information useful to the Department.

5. What categories of complaint data should the Department collect under Section A(4)(a)?

The Department should not require ETCs to report complaint rates by category. *See* Proposed Rule A.4. The need to win and retain customers in the competitive market provides ample motivation for ETCs to provide good service quality to their customers, and Verizon is not aware of any widespread problems with ETCs' customer service which might justify monitoring

their activity on such a micro level. Additionally, tracking and reporting complaints by category would impose new administrative costs on ETCs, which could be substantial depending on how many categories of complaints must be reported. That is especially true if the Department defines "complaint" broadly to include all communications with the ETC in which a customer expresses any "dissatisfaction." *See* response to Question 4 above. In that case, Verizon would need to train its customer service representatives not only to distinguish complaints from other customer interactions but also to classify those complaints into substantive categories. Verizon would also need to redesign its systems to record and report that information.

Verizon suggests instead that the current reporting requirement has proven its mettle and strikes the appropriate balance between ensuring the fair treatment of customers and imposing excessive compliance costs on ETCs. In this regard, Verizon notes that to its knowledge, only one state requires ETCs to report complaints by category, and that state, Kansas, leaves it to each ETC to choose its own reporting categories, thereby allowing greater consistency with the ETC's record-keeping systems and reducing the costs of compliance.

Finally, specialized reporting of complaints is unnecessary in the case of Verizon MA (*i.e.* the ILEC) in light of the service quality data that it already provides the Department on a monthly basis.

6. Should the Department define specific time limits for ETCs to resolve subscriber disputes under Section B(1)(a)? If so, how many business days constitute a "reasonable time" to resolve such disputes?

No, the Department should not impose specific time limits for ETCs to resolve subscriber disputes. Whether and when a dispute is resolved is not within the sole control of an ETC but depends on the customer as well. Imposing a deadline on the ETC to resolve such disputes would therefore be unrealistic, impractical and unfair to the ETC. In addition, all disputes are different, and a one-size-fits-all deadline, or even a set of them, would be inappropriate. Even

the Consumer Protection Rules, which the Department promulgated in 1977 to govern the conduct of the monopoly provider of traditional telephone service in the Commonwealth, do not include deadlines for resolving consumer disputes. *See* Consumer Protection Rules, Part 6.

7. **How do Massachusetts ETCs currently deliver termination of service notices? For example, are such notices sent by mail or by text message? Please provide examples. *See* Section B(1)(b).**

Verizon believes that the phrase "termination of service notices" in Question 7 and in proposed Rule (B)(1)(b) is intended to refer to notice of de-enrollment in the Lifeline program, rather than termination of the underlying telephone service. TracFone notifies customers of pending de-enrollment from the Lifeline program by text message and by email and then again after de-enrollment. In the wireline context, USAC notices a customer of de-enrollment, and Verizon MA emails the customer a change notice if the customer has provided the company with an email address. And of course, the customer's next bill will reflect the full charges for service without the Lifeline discount. Removal of the discount, however, does not disconnect the customer's telephone service. Where a disconnect becomes necessary, Verizon MA follows the Consumer Protection Rules and provides its customers with two written notices in advance and a reminder telephone call.

8. **Should the Department require ETCs to provide, in multiple languages, under Section B(1)(b), the Department's contact information and a notice regarding the Consumer Division's availability to handle Lifeline complaints?**

It is not unreasonable to require wireless ETCs to provide the Department's contact information in Spanish and Portuguese on marketing materials and notices of de-enrollment and requiring them to provide information regarding the Consumer Division's availability in those languages on ETCs' websites. For the reasons laid out above, however, Rule B(1) should not be expanded to landline carriers.

9. Do Massachusetts ETCs charge termination fees for early termination of Lifeline service?

The services that Verizon offers in connection with the Lifeline program are not offered under a plan for a specified length of time and therefore are not subject to early termination fees.

10. How should the Department define an "affiliate" for purposes of Section A(5)? Should the Department use the definition of "affiliate" as defined in 47 U.S.C. § 153(2).

For the reasons explained above, the Department should not extend Rule A(5), or any of the Lifeline Requirements, to affiliates of ETCs. Should the Department nevertheless decide to do so, it should use the federal definition of the term, for consistency and ease of administration.

Respectfully submitted,

VERIZON NEW ENGLAND INC.
TRACFONE WIRELESS INC.

By their attorney

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Dated: May 3, 2024