GREENBERG
ATTORNEYS AT LAW
TRAURIG

EX PARTE OR LATE FILED

RECEIVED

JUL 15 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mitchell F. Brecher
(202) 331-3152
BrecherM@gtlaw.com

July 15, 2002

VIA HAND DELIVERY

Ms. Marlene Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, NE
Suite 110
Washington, D.C. 20002

Re: Notice of Ex Parte Presentations in CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, and NSD File No. L-00-72.

Dear Ms. Dortch:

On July 12, 2002, F.J. Pollak (CEO of TracFone Wireless, Inc. ("TracFone")), Richard Salzman (General Counsel of TracFone), Nancy Boocker and I, on behalf of TracFone met during the course of three meetings with the following Commission staff members: Vickie Byrd, Eric Einhorn, Paul Garnett, Diane Law Hsu, and Carol Mattey, of the Wireline Competition Bureau, and Rose Crellin, Wayne Leighton, and Jeffrey Steinberg, of the Wireless Telecommunications Bureau.

During these meetings we discussed points raised in TracFone's initial and reply comments in this proceeding. Specifically, we discussed TracFone's prepaid wireless service offerings and information regarding typical TracFone customers. TracFone emphasized the difficulties that it would have in recovering the costs of a connection-based universal service contribution. In addition, TracFone representatives stressed the negative impact that the proposed connection-based contribution methodology would have on its primary customers who are generally low-volume and low-income users. TracFone representatives also highlighted the fact that its typical customer makes few or no interstate calls during the course of a month.

Attached are talking points used at the meeting. I have also attached other materials that were distributed in the meetings, including a map illustrating the number of underlying service providers used by TracFone and a comparison of the rates of TracFone's service offerings and those of other wireless carriers.

Pursuant to Section 1.1206(b) of the Commission's Rules, an original and 13 copies of this letter are being submitted to the Office of the Secretary for inclusion in the above-captioned dockets. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Mitchell F. Brecher

Attachments

cc: Vickie Byrd
Rose Crellin
Eric Einhorn
Paul Garnett
Diane Law Hsu
Wayne Leighton
Carol Mattey
Jeffrey Steinberg

- $1 monthly connection charge will represent a very large increase in USF contributions for average TracFone customer – much larger than Commission estimated in the Notice of Proposed Rulemaking. Currently, the average per-handset contribution is approximately $.17 per month.

- Connection-based contribution methodology will impair TracFone's ability to compete and will harm consumers who rely on TracFone's services.

  - Since TracFone cannot pass through the increased USF connection charge as a surcharge, it must either bear the increased charge or increase its rates.
  - It would be neither equitable nor nondiscriminatory for TracFone to be subject to large USF contribution charges, while competing wireline long distance carriers, particularly prepaid long distance carriers, make no USF contributions if they provide solely long distance services.
  - TracFone's low-income (16% earn below $25K per year) and low-volume (75% of customers have less than 5 minutes of interstate usage per month) users will face disproportionately significant increases in their rates. These customers may not have affordable alternatives for either wireline or wireless services.
  - TracFone's low-income users are not eligible for Lifeline subsidies and therefore would not receive an exemption from USF contributions that would apply to Lifeline recipients who are customers of other carriers (the "double whammy" problem).

- TracFone's implementation concerns and need for a transition period if contribution methodology is changed.

  - It takes time to print and distribute new cards.
  - Existing already purchased cards must be honored.
  - Would adversely affect TracFone distributors.

Talking Points for TracFone Meetings with FCC Staff Regarding USF Contribution Methodology Proceeding

CC Docket No. 96-45

July 12, 2002

- Application of a connection-based charge to prepaid wireless providers, would unduly harm those providers and their customers, and impair their ability to offer competitive services.

- Brief description of TracFone's history and current management.

  - Began offering service in 1996.
  - Affiliate of America Movil.
  - Industry experience of corporate officers.

- Detailed description of TracFone's unique services.

  - Nationwide prepaid service (including offshore points) provided through resale of primarily digital services of dozens of wireless providers.
  - Specially designed handset tracks usage rather than network-based usage tracking.
  - Handsets and prepaid wireless airtime cards sold at tens of thousands of retail outlets and available from company website.
  - Customer initiates service by purchasing a TracFone handset and then calling TracFone's 800 number to activate service. Prepaid wireless airtime cards are also activated by calling TracFone's 800 number.
  - Price structure – one unit per minute for local and long distance in home area and two units per minute when roaming.

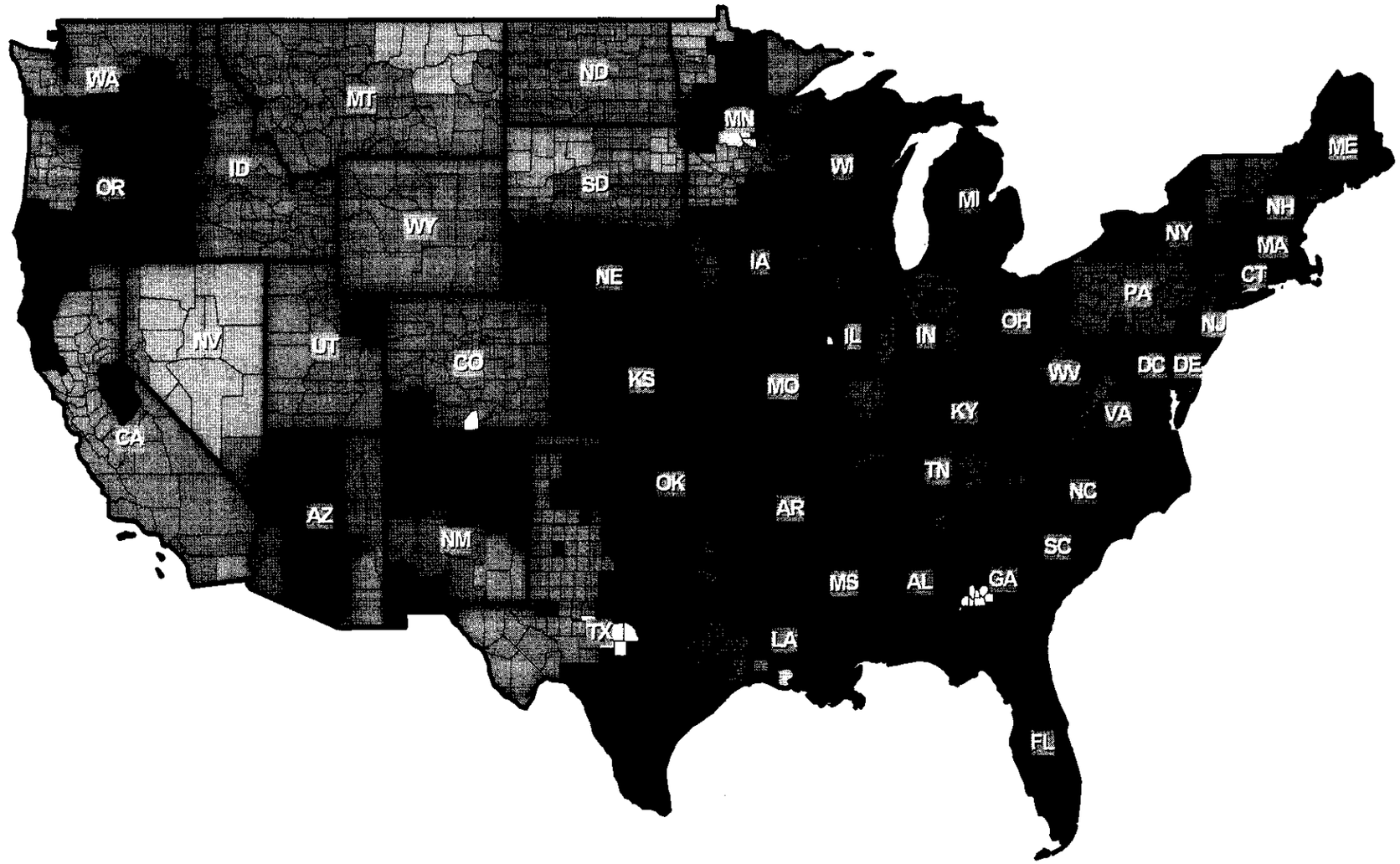
- Description of TracFone's customers.

  - Over 1.8 million customers.
  - Pay as you go, no contracts, credit checks, monthly fees, activation fees, or age limits.
  - Appeals to people who otherwise could not qualify for traditional wireless service, particularly low income users.
  - Appeals to low-volume users, who often purchase phone for safety reasons.
  - Appeals to people who do not want to or cannot commit to long-term service contracts with stiff early termination penalties.

- TracFone's concerns with proposed connection-based USF contribution methodology.

  - No easy way to pass through to customers a connection-based charge because there is no monthly bill and no switch-based database to deduct charge on monthly basis.

TRACFONE VIRTUAL NETWORK



TracFone wireless, inc.

Lowest Advertised Postpaid Rates#

Carrier	Minimum Plan (Taxes Not Included)	Anytime Minutes	Nights & Weekends	Additional Airtime	Domestic LD	Domestic Roaming
ATT	$29.99	400	Unlimited	$0.40	$0.20	$0.69
Verizon	$35.99	400	Unlimited	$0.40	$0.20	$0.69
Cingular	$19.99	50	100	$0.40	Included	$0.69
Nextel **	$39.99	300	3600	$0.35	Included	Roaming service not available
Sprint	$34.99	200	3300	$0.40	Included	$0.39 + $0.25 long distance
Voicestream	$19.99	60	500	$0.40	Included	$0.49 + long distance
TracFone Wireless*	$7.92 (Based on Annual Plan)	150	0	$0.27 to $0.60*	Included	$0.54 - $1.20
TracFone Wireless*	$7.99 (Based on future AutoPay Program)	0	0	$0.26 to $0.45*	Included	$0.52 - $0.90
TracFone Wireless*	$14.99 (Based on future Bonus Program)	Double minutes on 30, 60, and 150 cards	0	$0.17 to $0.30*	Included	$0.34 - $0.60

* Taxes included in TracFone rates.
** Nextel promotion ends 6/30/02.
*** All pricing based on one-year service agreement.
# Internet rates as of 6/16/02.