

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
TRACFONE WIRELESS, INC.)	
)	
Petition for Forbearance)	
)	
_____)	

CLARIFICATION OF PETITION FOR FORBEARANCE

TracFone Wireless, Inc. (“TracFone”), by its attorneys, hereby clarifies its Petition for Forbearance, filed with the Commission on June 8, 2004. In the Petition for Forbearance, TracFone requested, pursuant to Section 10 of the Communications Act of 1934 (“Communications Act” or “Act”), as amended,¹ that the Commission forbear from applying the requirement of Section 214(e)(1)(A) of the Communications Act² that a common carrier designated as an eligible telecommunications carrier (“ETC”) shall offer services supported by

¹ 47 U.S.C. § 160.

² 47 U.S.C. § 214(e)(1)(A).

the Federal universal service support mechanisms using either its own facilities or a combination of its own facilities and another carrier's services.³

Section 10 of the Communications Act directs the Commission to forbear from applying any regulation or any provision of the Act to a telecommunications carrier or telecommunications service, or classes of such carriers or services, if the Commission determines that certain conditions are present. TracFone demonstrated in its Petition for Forbearance that the requirements for forbearance have been met.

Section 54.201(i) of the Commission's Rules⁴ implements Section 214(e)(1)(A) by providing that a "state commission shall not designate as an eligible telecommunications carrier a telecommunications carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services." By this filing, TracFone clarifies that its Petition for Forbearance requests forbearance from application or enforcement of Section 54.201(i) of the Commission's Rules, as well as from application or enforcement of Section 214(e)(1)(A) of the Communications Act.

For the reasons set forth in its Petition for Forbearance filed June 8, 2004, as clarified herein, TracFone requests that the Commission grant its Petition and forbear from application or enforcement of Section 214(e)(1)(A) of the Communications Act and Section 54.201(i) of the Commission's Rules. Grant of TracFone's Petition for Forbearance will enable the Commission

³ On June 8, 2004, TracFone filed a petition for designation as an ETC in the State of New York and on June 21, 2004, TracFone filed ETC petitions for the State of Florida and the Commonwealth of Virginia. On August 16, 2004, TracFone filed amendments to each of those petitions to clarify that TracFone seeks ETC designation solely to enable it to seek support from the low income program of the federal universal service fund. TracFone plans to seek ETC status in additional states. Accordingly, this Clarification of Petition for Forbearance is applicable to all subsequent ETC petitions filed by TracFone that relate to other states.

⁴ 47 C.F.R. § 54.201(i)

to designate TracFone as an ETC and will allow state commissions to act favorably on TracFone ETC requests in states which have the jurisdictional authority to make ETC designations.

Respectfully submitted,

TRACFONE WIRELESS, INC.

A handwritten signature in black ink, appearing to read 'M F Brecher', is written over a horizontal line.

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September 23, 2004

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CERTIFICATE OF SERVICE

I, Michelle D. Diedrick, an Executive Assistant with the law firm of Greenberg Traurig, LLP, hereby certify that on September 23, 2004, a copy of the foregoing Reply Comments of TracFone Wireless, Inc. was filed with the following:

COPY of the foregoing served via electronic mail to the **FCC's Electronic Comment File Submission** on this 23rd day of September, 2004

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