

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	
)	
TRACFONE WIRELESS, INC.)	CC Docket No. 96-45
)	
Petition for Forbearance)	
)	
Petitions for Designation as an Eligible)	
Telecommunications Carrier in the State of)	
Alabama, the State of Connecticut, the State of)	
Florida, the Commonwealth of Massachusetts, the)	
State of New York, the State of Tennessee, the)	
State of North Carolina, the State of Tennessee and)	
the Commonwealth of Virginia)	
_____)	

**EX PARTE SUPPLEMENT TO PETITION FOR FORBEARANCE AND PETITIONS
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

TracFone Wireless, Inc. (“TracFone”), by its attorneys, hereby supplements its Petition for Forbearance and Petitions for Designation as an Eligible Telecommunications Carrier (“ETC Petitions”) to advise the Commission regarding the Lifeline plan it will offer upon grant of its petitions.

INTRODUCTION

On June 8, 2004, TracFone, a Commercial Mobile Radio Service (“CMRS”) provider which provides its services exclusively on a prepaid basis, filed a Petition for Designation as an Eligible Telecommunications Carrier in the State of New York and a Petition for Forbearance requesting that the Commission exercise its authority under Section 10 of the Communications Act (47 U.S.C. § 160) to forbear from applying or enforcing the requirement contained at Section

214(e)(1)(A) of the Act (47 U.S.C. § 214(e)(1)(A)) and Section 54.201(i) of the Commission's Rules (47 C.F.R. § 54.201(i)) that carriers designated as eligible telecommunications carriers ("ETCs") provide service either using their own facilities or a combination of their own facilities and resale of another carrier's services. On June 21, 2004, TracFone filed ETC petitions for Florida and Virginia and on November 9, 2004, TracFone filed petitions for Alabama, Connecticut, Massachusetts, North Carolina, and Tennessee.¹ In the Petition for Forbearance and ETC Petitions, and amendments to those petitions, TracFone has explained why its ETC designation petitions are consistent with the applicable laws, regulations and policies governing universal service and why grant of those petitions would serve the public interest. In TracFone's ETC Petitions for Florida, New York, and Virginia, TracFone proposed a specific Lifeline plan. However, after reviewing comments filed in response to those ETC Petitions and discussing its Lifeline plan with the Commission Staff, TracFone has further evaluated the specifics of its plan. Therefore, TracFone did not propose a specific Lifeline plan in its subsequently-filed ETC Petitions. By this supplement, TracFone provides the Commission with the details of the Lifeline service plans which it proposes to implement in every state where it is designated as an ETC.

DESCRIPTION OF TRACFONE'S REVISED LIFELINE PLAN

TracFone currently offers its prepaid wireless services through two consumer brands – TracFone Pay-As-You-Go Wireless, and NET10 Pay-As-You-Go Wireless. Both brands are offered throughout the United States, including Puerto Rico and the U.S. Virgin Islands; both are marketed through retail outlets including Wal-Mart, RadioShack, K-Mart, Rent-a-Center, Office

¹ TracFone's Petition for Forbearance applies to the concurrently filed petition seeking ETC designation in New York, as well as to all subsequently-filed petitions seeking ETC designation in other states.

Max, Walgreen's, Safeway and others. If designated as an ETC, TracFone will offer Lifeline programs through both brands. The TracFone and the NET10 proposed Lifeline plans are described below. Before describing those plans, TracFone notes that its services are offered in a competitive market in which market conditions are constantly evolving. Accordingly, pricing and other service features will be changed from time-to-time. The plans described herein are based on an assumed universal service subsidy of \$10.00 per month. If the available universal service support is less than that amount or greater than that amount, the plans will be adjusted accordingly. However, TracFone hereby assures the Commission that any Lifeline plans offered by it will include a one hundred percent pass through to the eligible Lifeline consumers of all Universal Service funding received by TracFone as an ETC.

1. TracFone Pay-As-You-Go Wireless Lifeline Plan

Qualifying Lifeline customers will be able to enroll in a special version of TracFone's Double Minute Annual Plan. Normally, customers of that plan are charged \$129.99 for 300 minutes of service which can be utilized over a one year period. Qualifying Lifeline customers will not be charged anything for that plan. The entire plan price -- \$129.99 -- will be covered by Universal Service funding over a twelve month period.² In addition, Lifeline customers will receive 360 minutes of service usable over the twelve month period (30 minutes per month). Lifeline customers will be able to purchase additional minutes on an as-needed basis and all additional purchases will be doubled, *i.e.*, the consumer will receive double the minutes purchased. For example, a Lifeline customer who purchases 100 additional minutes of service will receive 200

² If the amount available from the Universal Service Fund is insufficient to support the entire plan price, then TracFone would charge some discounted amount for the plan reflecting the diminished subsidy.

minutes of service. In short, after a Lifeline consumer has exhausted his or her 30 monthly minutes of service, the consumer will be able to purchase as much additional service as it needs at one-half the normal price. Further, qualified Lifeline customers will be entitled to purchase inexpensive handsets at retail outlets (current prices for handsets are as low as \$29.99). Alternatively, Lifeline customers will be entitled to receive refurbished handsets free of charge by ordering them off the TracFone website (www.tracfone.com). The TracFone Pay-As-You Go Wireless plan will operate in one year increments. However, consumers may remain in the plan so long as they remain eligible for Lifeline service.

2. NET10 Pay-As-You-Go Wireless Lifeline Plan

NET10 plans are intended for higher volume customers. Usage prices are generally lower than TracFone Pay-As-You-Go Wireless plans. However, handset prices are not subsidized and are higher than the handset prices available to customers of the TracFone Pay-As-You-Go Wireless plans. NET10 usage prices normally are \$0.10 per minute. The NET10 Lifeline plan would include several options. These include the following:

- Option 1 Qualified Lifeline customers would receive 100 free minutes and 10 extra service days per month which would automatically be credited on their handsets. Customers would purchase NET10 usage products from retail outlets at standard retail prices. An Example of a current NET10 product is a \$30 plan which includes 300 minutes usable over 30 days. Lifeline customers who purchased the \$30/300 minutes product would receive instead 400 minutes usable over 40 days.
- Option 2 Lifeline customers would receive monthly NET10 discount coupons for each month they are enrolled in the plan. The coupons would provide a \$10 discount

below the standard NET10 price. A customer could redeem a coupon monthly at any Net10 retailer and receive a \$30 calling product for \$20. Option 2 would operate in a manner similar to how ETCs offer Lifeline service in a post-paid environment. Just as Lifeline customers of postpaid wireline and wireless ETCs receive Lifeline discounts of fixed amounts on their monthly bills, NET10 Lifeline customers would receive the same fixed monthly discounts on their purchases by presenting the coupons to TracFone retailers at the time of purchase once per month.

Each of the Lifeline plans proposed under the TracFone Pay-As-You-Go Wireless and NET10 Pay-As-You-Go Wireless plans would include local and long distance calling, there would be no roaming charges, and would include such features as caller ID, voicemail, and E911 service – all included at no additional charge. TracFone would certify each applicant’s eligibility to participate in its Lifeline program and verify each Lifeline customer’s continued eligibility to remain a Lifeline customer in full conformance with the Commission’s rules (i.e., 47 C.F.R. § 54.410) and applicable state requirements.³

BENEFITS OF TRACFONE’S LIFELINE PLANS

The terms of TracFone’s proposed Lifeline plans are more beneficial to qualified consumers than the terms of the Lifeline plan TracFone initially proposed in the ETC Petitions for Florida, New York, and Virginia. First, the current proposed Lifeline plans would provide qualified Lifeline customers with more minutes of calling time for a lower price. As with all TracFone and NET10 pricing, the per minute calling rates are “fully loaded.” There would be no

³ On July 13, 2005, TracFone filed in this proceeding an ex parte letter which contained a document entitled “TracFone’s Plans for Compliance with the Lifeline Certification and Verification Requirements Codified at Section 54.410 of the Commission’s Rules.” Details regarding TracFone’s certification and verification compliance plan are contained therein.

additional taxes, surcharges, universal service pass-through charges or other federal, state or local fees.⁴ These plans proposed herein clarify that enhanced 9-1-1 service would always be available to all customers even if the consumer's airtime has expired and has not been replaced. Finally, TracFone is proposing several Lifeline plan options in recognition of the fact that different Lifeline eligible customers will have differing calling requirements and that not all consumers will most benefit from any one plan. For that reason, TracFone is proposing to offer Lifeline customers a choice of service options.

Availability of affordable service for low income Americans through the Lifeline program is a key purpose of universal service.⁵ TracFone's Lifeline plans will provide convenient and dependable wireless telecommunications service at affordable prices to low income consumers. TracFone's revised Lifeline plans will promote the goals of universal service while offering benefits to low income low volume users that are not offered by traditional postpaid wireless carriers.

Furthermore, the prepaid nature of TracFone's Lifeline service guarantees that Lifeline customers receive telecommunications service at known and affordable prices. Lifeline plans offered by postpaid wireless carriers usually subject customers to substantial per minute overage charges if they use more than the permitted minutes per month, thereby increasing the monthly cost of service and impeding the consumer's ability to control its telecommunications costs. Such a result is inconsistent with the purpose of Lifeline service, which is to provide affordable

⁴ Some states require imposition of taxes on purchases of equipment and service at the point-of-sale. Such taxes, where applicable, are paid by consumers at the time of purchase and are never debited by TracFone.

⁵ See, e.g., Conference Agreement on the Telecommunications Act of 1996, H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. 130 at 131 ("New Section 254(b) combines the principles found in both the Senate bill and House amendment, with the addition of 'insular areas' . . . and 'low income consumers' to the list of consumers to whom access to telecommunications and information services should be afforded.") (emphasis added).

service to low income consumers. Customers of TracFone's Lifeline service plans will always know the precise cost of service. There are no additional, unexpected charges if the customer uses more airtime than was initially purchased. Instead, the customer determines the amount he or she can afford to pay for airtime and purchases additional usage in advance on an as-needed basis.

The Lifeline service plans to be offered by TracFone include terms and features that are particularly attractive to low income low volume users. TracFone's customers tend to be those customers other wireless carriers do not want to serve – lower income, lower volume users, students, elderly, transient consumers, and customers who either are unwilling to enter into long-term service contracts with steep early termination penalties, or if they are willing to sign such contracts, do not have credit ratings that would be satisfactory to those other carriers. TracFone's service does not require any contracts or credit checks, and consumers are not subjected to early termination penalties or late payment fees. TracFone offers service to groups of individuals that are underserved. TracFone's proposed Lifeline plans will ensure that consumers who qualify for Lifeline have access to telecommunications service at affordable prices. Perhaps more importantly, TracFone hopes to be able to attract customers who are qualified for the Lifeline program but to whom wireless service options have heretofore been unavailable or, if available, not economically viable. TracFone's primary objective in seeking ETC designation and offering Lifeline plans is to increase telephone penetration, particularly

among the economically disadvantaged.⁶ As the Progress and Freedom Foundation data described at footnote 6 demonstrate, there is indeed a “telecommunications divide” in this country between the overall population and minority populations and between the population as a whole and the poor. TracFone’s purpose in proposing to offer affordable wireless service through a Lifeline program is to bridge that divide.

TracFone recognizes that its Lifeline plans will not appeal to all consumers eligible for Lifeline service. Some consumers may prefer to use their Lifeline eligibility to reduce the cost of their in-home wireline phone service; others may be attracted to Lifeline plans offered by other wireless ETCs. However, TracFone has designed its Lifeline plans to fill a perceived market need and to serve market segments which do not currently have Lifeline-supported wireless service available to it. It will also enable consumers eligible for Lifeline service to utilize their Lifeline eligibility to obtain affordable wireless services if they believe that a wireless option will best meet their telecommunications needs.

MARKETING AND OUTREACH EFFORTS

As an ETC, TracFone will be required to promote the availability of its Lifeline service. TracFone plans to utilize such marketing and outreach efforts as necessary and appropriate to ensure that as many eligible consumers as possible avail themselves of TracFone’s prepaid

⁶ The telephone penetration disparity between the overall population and the lower income portion of the population, especially minority lower income persons, was documented in a recent study issued by the Progress and Freedom Foundation. See The Myths and Realities of Universal Service: Revisiting the Justification for the Current Subsidy Structure, January 2005. According to data contained at Exhibit III.5.a of that study, as of March 2004, the national telephone penetration rate, irrespective of income level, was 94.2%. According to Exhibit III.5.c, the penetration rate among African Americans with annual incomes below \$5,000 was only 76.9%; among African Americans with annual incomes between \$12,500 and \$15,000, the penetration rate was only 87.9%. Among Hispanics, the penetration rate for persons with annual incomes under \$5,000 was 74.9%; among Hispanics with annual incomes between \$12,500 and \$15,000, the penetration rate was 88%.

wireless Lifeline offering. As one of several ETCs operating in each market, TracFone understands that it is competing with other ETCs, including the incumbent local exchange carriers, to be chosen by consumers to be their Lifeline service provider. TracFone will utilize traditional means for promoting the availability of its Lifeline program. These means will include print and radio advertising in media outlets most likely to reach consumers eligible for Lifeline. These would include national publications as well as local and community newspapers, and commercial radio stations, especially those stations whose programming is targeted to significant lower income communities including, for example, Spanish language radio stations.

In addition, TracFone will utilize its network of retail outlets to help promote the availability of its Lifeline plans, especially those retail outlets which are frequented by lower income consumers. Businesses such as Rent-a-Center, Dollar General Stores and even Wal-Mart are important shopping venues for many Lifeline-eligible consumers. Retailers will be provided with signage to be displayed where TracFone products are sold, and with printed materials describing TracFone's Lifeline program and will be encouraged to assist consumers in applying for Lifeline service if qualified. Given the relationship which exists between TracFone, lower income consumers, and retail outlets which are often visited by lower income consumers, TracFone believes that it will be able to inform consumers of the availability of Lifeline service in a manner which will result in significantly higher participation in the Lifeline program by qualified consumers than has been the case in the past.

Further, as described in TracFone's certification and verification compliance plan, TracFone will work with appropriate state agencies to provide for automatic enrollment where such programs are in existence. Throughout its duration, TracFone has maintained a customer service center with multilingual capabilities. TracFone will continue to make available Spanish-

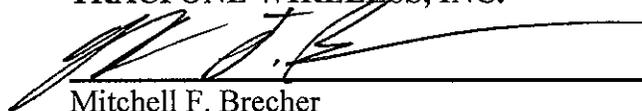
speaking persons specially trained in the Lifeline eligibility and certification requirements to assist Spanish-speaking Lifeline eligible consumers in enrolling in the Lifeline program.

CONCLUSION

For all of the reasons set forth in this Supplement, as well as in TracFone's Petition for Forbearance and ETC Petitions, and replies and amendments thereto, TracFone has demonstrated that it meets the requirements for designation as an ETC (except for the facilities-based requirement for which it has petitioned for forbearance), that its proposal to offer Lifeline service would serve the public interest, and that it has met each prong of the standard for forbearance from application or enforcement of the facilities-based requirement in Section 214(e)(1)(A) of the Act and Section 54.201(i) of the Commission's Rules (47 C.F.R. § 54.201(i)), as set forth at Section 10 of the Act. Accordingly, TracFone respectfully urges the Commission to exercise its statutory authority to forbear from application of Section 214(e)(1)(A) of the Act and Section 54.201(i) of the Commission's Rules, and to promptly grant its ETC Petitions so that TracFone may offer its Lifeline program to eligible low income consumers.

Respectfully submitted,

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July 15, 2005

CERTIFICATE OF SERVICE

I, Michelle D. Guynn, an Executive Assistant with the law firm of Greenberg Traurig, LLP, hereby certify that on July 15, 2005, a copy of the foregoing Ex Parte Supplement to Petition for Forbearance and Petitions for Designation as an Eligible Telecommunications Carrier 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 15th day of July, 2005

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