Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45

REPLY COMMENTS OF TRACFONE WIRELESS, INC. ON JOINT BOARD PROPOSAL FOR INTERIM HIGH COST FUNDING CAP

In its initial comments in this proceeding, TracFone Wireless, Inc. ("TracFone") supported the Federal-State Joint Board proposal for an interim cap on the amount of Universal Service Fund ("USF") high cost support which could be received by Eligible Telecommunications Carriers ("ETCs") pending promulgation by the Commission of reforms to the mechanisms for the distribution of USF high cost support. However, TracFone indicated that it disagrees with the notion that the cap only be imposed on so-called "competitive" ETCs. Recognizing that the continued and unrestrained growth of the USF has placed a significant burden on providers of interstate telecommunications services, and ultimately on consumers of those services, TracFone advocated that the interim cap should be applicable to all ETC recipients of high cost support, without regard to whether such ETC recipients are labeled as "incumbent" ETCs or "competitive" ETCs.

While TracFone urged the Commission to remain focused on the pressing issue before it -- controlling the upward pressure on the size of the USF, other commenters used this proceeding as a forum to bash their competitors and to seek for themselves a "fair advantage" resulting from USF distribution policies. TracFone predicted that other commenters would resort to such a "blame game," with competitive ETCs and incumbent ETCs each blaming the other for the growth of the USF. That prediction came to pass. For example, the Organization for the

Promotion and Advancement of Small Telecommunications Companies (OPASTCO) states that competitive ETCs are the "source of virtually all of the growth in the High-Cost program in recent years."[1] The Blackfoot Telecommunications Group alleges that competitive ETCs are the "sole source of the current, explosive growth in the high cost program of the Universal Service Fund."[2] Fred Williamson & Associates, Inc. states that "the growth of high-cost support due to competitive Eligible Telecommunications Carriers (CETCs) certifications threatens the viability of high-cost support for rural wireline ILECs.[3]

Rural ILECs and their advocates were not the only parties to play the "blame game." Corr Wireless Communications, LLC, noting that 80 percent of high cost support goes to LECs, states that "it is actually the bloated parties soaking up the vast majority of the funding who should bear the greatest responsibility for overtaxing the system."[4] According to CTIA - The Wireless Association®:

> Indeed, even if wireless ETCs received *no* high-cost universal service funding, wireline carriers would still receive over $3 billion in annual high-cost universal service support and over $6 billion universal service support overall and the universal service contribution factor would still be above 10 percent. Policies that have continued to pay "rural" incumbent LECs high-cost support based on their booked costs and guarantee a constant rate of return after the intended sunset of the "interim" rural mechanism, as well as unnecessarily expensive access-related universal service support, are every bit as much responsible for Fund growth as the rise of predominantly wireless CETCs.[5]

Additional examples of commenting parties blaming each other for the growth of the USF abound. TracFone sees little public interest benefit to the debate as to which parties are to bear the most responsibility for the growth of the USF. Whether or not the source of the growth of

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1 OPASTCO Comments at 3.
2 Blackfoot Telecommunications Group Comments at 1.
3 Fred Williamson & Associates, Inc. Comments at 2.
4 Corr Wireless Communications, LLC Comments at 2.
5 CTIA Comments at 2.

the USF is the proliferation of competitive, primarily wireless ETCs, or the continued support of rural ILECs based on historic costs, and without regard to loss of customers to competitive providers, the undisputed fact remains that the USF requires more than $7 billion in contributions for consumers annually, which has resulted in significant increases in the total prices for telecommunications services. That is a very significant problem which must be addressed, at least on an interim basis pending comprehensive reform to the distribution processes and policies.

Notwithstanding the burden which a bloated and constantly growing USF has placed on the nation's telecommunications consumers, some commenters have articulated the view that the growth of the USF does not matter, or at least that it is less important than that there be available sufficient USF subsidization to benefit all competitors equally. For example, COMPTEL states that the Commission "must retain a policy that encourages -- not discourages -- competitive entry into these high cost markets, <u>even though it may additional burdens to the fund</u>."[6] Whether or not this "competition for competition's sake" argument ever was meritorious, the notion that the USF should be allowed to grow without limitation so long as all competitors and potential competitors have incentives to enter ostensibly high-cost areas is not sustainable.

Those parties who have argued in favor of unlimited USF high-cost support for incumbent LECs and those who have argued that all ETCs should continue to receive the same levels of support seem to have lost sight of the purposes underlying the USF. Nothing in the Communications Act requires that all ETCs receive the same amount of funding; nor does any provision of the Act require that high cost funding be sufficient to ensure that consumers everywhere pay the same prices for telecommunications service. Rather, the Act requires that consumers in all regions should have access to telecommunications service at rates that are

[6] COMPTEL Comments at 4 (emphasis added).

"reasonably comparable" to the rates charged for similar services in urban areas.[7] The underlying statutory concept is *reasonable comparability*, not unlimited subsidization as needed to assure identical pricing.

In this regard, TracFone directs the Commission's attention to an alternative proposal submitted by Centennial Communications Corp. Centennial has proposed that the contribution factor be frozen at its current level. As noted by Centennial, a contribution factor freeze will allow the USF to grow as overall industry revenues grow, without increasing the burden on the industry (*i.e.*, on consumers) to support universal service than that which exists today.[8] TracFone believes that the proposal to cap the contribution factor is a wise suggestion and it encourages the Commission to consider a contribution factor freeze either as an alternative to, or in addition to, an across-the-board cap on high-cost support, pending comprehensive high-cost distribution reform.

Under a contribution factor freeze, should there be a shortfall in USF funding, then disbursements to all ETCs -- incumbent and competitive, wireline and wireless -- would be reduced *pro rata* as needed. No carrier or category of carrier would receive preferential treatment because of their status or the technology deployed. It is difficult to imagine any interim an interim contribution factor freeze. No carrier or class of carriers would be favored or disfavored. All carriers who qualify as ETCs would receive high-cost support based on available funds. If such a shortfall were to occur, and the level of high-cost support to ETCs was somewhat reduced, there would still be support for those ETCs serving high cost areas, and there is no reason to conclude that the resulting rates to consumers would not be reasonably comparable with rates charged to consumers elsewhere.

[7] 47 U.S.C. § 254(b)(3).
[8] Centennial Comments at 6.

For the reasons stated in these reply comments as well as those set forth in TracFone's initial comments, TracFone respectfully urges the Commission to impose an interim freeze on high-cost support applicable to all ETCs which receive high-cost support. It also urges the Commission to consider as an alternative interim measure the establishment of a freeze on the USF contribution factor, pending completion of the proceeding looking toward adoption and implementation of comprehensive USF high-cost distribution reform.

Respectfully submitted,

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By: ______________________

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June 21, 2007