



February 27, 2008

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W., TW-A325  
Washington, D.C. 20554

*Re: In the Matter of the Federal-State Joint Board on Universal Service Proceeding on Long-Term Comprehensive High-cost Universal Service Reform, WC Docket 05-337, and CC Docket 96-45; Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the District of Columbia.*

Dear Ms. Dortch:

Pursuant to the Public Notice of the Federal Communications Commission (“FCC” or “Commission”),<sup>1</sup> the National Association of State Utility Consumer Advocates (“NASUCA”)<sup>2</sup> files these brief comments on the petition of TracFone Wireless, Inc. (“TracFone”) for designation as an eligible telecommunications carrier (“ETC”) in the District of Columbia. TracFone seeks this designation in order to provide Lifeline service to low-income consumers in the District and to receive funding from the federal universal service fund. TracFone, a reseller of wireless service, bases its petition on the

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<sup>1</sup> DA 08-178 (rel. January 28, 2008).

<sup>2</sup> NASUCA is a voluntary, national association of consumer advocates in more than 40 states and the District of Columbia, organized in 1979. NASUCA’s members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. *See, e.g.*, Ohio Rev. Code Chapter 4911; 71 Pa. Cons. Stat. Ann. § 309-4(a); Md. Pub. Util. Code Ann. § 2-205(b); Minn. Stat. Ann. Subdiv. 6; D.C. Code Ann. § 34-804(d). Members operate independently from state utility commissions, as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General’s office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

FCC's 2005 grant to TracFone of forbearance from the provision of 47 U.S.C. § 214(e)(1)(a) that requires ETCs to provide service over their own facilities.<sup>3</sup>

Recently, NASUCA (along with its member the Public Utility Law Project of New York, Inc.) filed combined comments on similar TracFone petitions for the States of Delaware and New Hampshire and on petitions by Virgin Mobile USA, L.P. ("Virgin Mobile") for forbearance (similar to the TracFone forbearance petition cited above) and for ETC designation in the States of New York and Virginia and the Commonwealth of Pennsylvania.<sup>4</sup> NASUCA also filed comments (in the form of a letter similar to this one) regarding TracFone's petition for the Commonwealth of Pennsylvania.<sup>5</sup> In those comments, NASUCA supported the grant of forbearance to Virgin Mobile and the ETC designations for TracFone and Virgin Mobile, under certain conditions.

As stated in those filings, most of those conditions were adopted in the *TracFone Order*. TracFone committed to comply with those conditions.<sup>6</sup>

In the NASUCA/PULP Comments, it was proposed that TracFone be required to offer the Lifeline discount to all of its customers, not just to subscribers of the two plans outlined in its petitions.<sup>7</sup> In reply comments in that proceeding, TracFone indicated that the two plans outlined are the only two plans it offers.<sup>8</sup> With that understanding, NASUCA's concerns regarding TracFone's petitions were satisfied.

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<sup>3</sup> Petition at 4, citing *In the Matter of Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Forbearance from 47 USC §214(e)(1)(A) and 47 CFR. §54.201(i)*, CC Docket No. 96-45, Order, FCC 05-165, 20 FCC Rcd 15095 (2005) ("*TracFone Order*"). TracFone also has pending petitions for ETC designation for Alabama, Connecticut, Massachusetts, North Carolina and Tennessee (all filed November 9, 2004) and for Florida and Virginia (filed July 21, 2004).

<sup>4</sup> *In the Matter of Federal-State Joint Board on Universal Service; Virgin Mobile USA, L.P. Petitions for Forbearance and for Designation as an Eligible Telecommunications Carrier in the States of New York, Pennsylvania and Virginia; TracFone Wireless, Inc. Petitions for Designation as an Eligible Telecommunications Carrier in the States of Delaware and New Hampshire*, CC Docket 96-45, Initial Comments of the National Association of State Utility Consumer Advocates and the Public Utility Law Project of New York, Inc. Regarding Petition for Forbearance and Petitions For Eligible Telecommunications Carrier Status (January 14, 2008) ("NASUCA/PULP Comments").

<sup>5</sup> *Id.*, *TracFone Wireless, Inc. Petitions for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania*, Letter from David C. Bergmann (filed February 8, 2008).

<sup>6</sup> See TracFone Wireless Incorporated's Compliance Plan (October 11, 2005) at 3. It appears, however, that TracFone has its own plan for compliance with the 911 conditions. *Id.* at 4-14. At this point, NASUCA does not take a position on whether TracFone's plan is acceptable.

<sup>7</sup> NASUCA/PULP Comments (January 14, 2008) at 5-6.

<sup>8</sup> Reply Comments of TracFone Wireless, Inc. (January 29, 2008) at 2-4.

Respectfully submitted,

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