



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

January 6, 2009

Ms. Marlene Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

LETTER COMMENT

Re: In the Matter of)
)
TracFone Wireless, Inc. Petition for) Docket No. 96-45
Modification of Public Safety)
Answering Point Certification Condition)

Dear Ms. Dortch:

The Pennsylvania Public Utility Commission (PaPUC) files this Letter Comment in the above-referenced proceeding. The Federal Communications Commission (FCC) published notice of the TracFone Petition for Modification of Public Safety Answering Point (PSAP) Certification in the Daily Digest on December 24, 2008 (the TracFone Notice). The FCC set deadlines of January 6, 2009 and January 13, 2009 for Comments and Replies, respectively.

This pleading cycle is insufficient to properly address the claims made about Pennsylvania's implementation of the FCC's conditions regarding PSAP certification and compliance with state laws. The FCC requires TracFone to have the states' PSAP providers certify that TracFone can deliver 911 calls as part of TracFone's request for Eligible Telecommunications Carrier (ETC) designation under Section 254 of the Telecommunications Act of 1996 (TA-96). While most PSAPs operate at the county level in Pennsylvania's 67 counties, Pennsylvania actually has 69 PSAP providers and no statewide PSAP.

The FCC also requires TracFone to certify compliance with state laws. In Pennsylvania, this includes an obligation to support the 911 services delivered by PSAP providers.

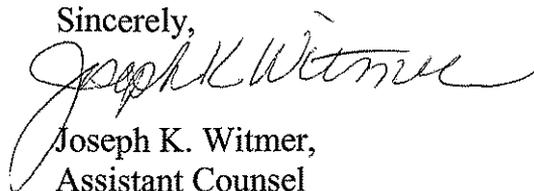
These conditions are prerequisites to ETC designation. ETC designation allows a recipient to get federal universal service fund (FUSF) support. This includes support for TracFone's Lifeline service. Lifeline is one part of an increasingly expensive FUSF program that is already under review by the FCC and the states.

TracFone claims that PEMA and PaNENA have unreasonably refused to certify, or later revoked, TracFone's compliance with the FCC conditions. The facts and technical issues behind those allegations cannot be properly considered with such a limited pleading cycle in the middle of a national holiday period.

The PaPUC attaches correspondence illustrating TracFone's interaction with PSAP providers in Pennsylvania. This correspondence demonstrates that the factual, technical, and legal issues are much more complex than the two paragraph anecdotal indictments that TracFone makes about Pennsylvania on pages 8-9 of their petition for relief from 911 requirements.

The PaPUC requests another pleading cycle, perhaps four weeks for Comments and Reply Comments two weeks after that. Otherwise, the PaPUC and other states or agencies will have to address complex factual, technical, and legal issues in a short Reply Comment period.

Sincerely,



Joseph K. Witmer,
Assistant Counsel
PaPUC Law Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-3663

Enclosures

cc: Best Copy & Printing (via E-Mail)
Ms. Carol Pomponio, FCC (via E-Mail and First Class Mail)
Ms. David Duarte, FCC (via E-Mail and First Class Mail)
FCC Chair and Commissioners (via E-Mail and First Class Mail)



**PENNSYLVANIA EMERGENCY
MANAGEMENT AGENCY**
2605 Interstate Drive
Harrisburg, Pennsylvania 17110-9364



October 16, 2008

Dear 9-1-1 Coordinator:

On April 11, 2008, the Federal Communications Commission issued an Order (FCC 08-100) conditionally granting the petition of TracFone Wireless seeking designation as an eligible telecommunications carrier ("ETC") for the limited purpose of providing Lifeline service. The Order included two state-related requirements for lifting the conditional status of TracFone's ETC designation: (1) obtaining certifications from State's affected public safety answering points ("PSAPs") that TracFone is "providing its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes"; and (2) providing a certification by TracFone that "it is in full compliance with any applicable 911/E911 obligations, including obligations relating to the provision and support of 911 and E911 service" in each affected state.

While PEMA has been in contact with TracFone regarding the Public Safety Emergency Telephone Act's remittance issue, I would like to take this opportunity to elaborate on the matter of Public Safety Answering Point certification pursuant to FCC Order 08-100:

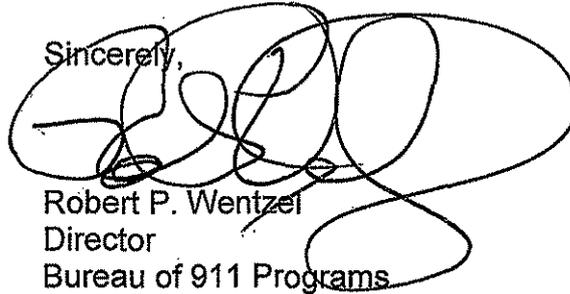
1. The Public Safety Answering Point certification process is independent of the remittance issue.
2. Your response to TracFone's request should certify your PSAP's compliance for delivery of Phase II wireless data and your ability to answer all wireless 911 calls that are routed to your PSAP regardless of carrier, activation status or availability of prepaid minutes. The actual routing of 911 calls is dependent upon the capabilities of the users' handset, the originating carriers' network, and the PSAPs' serving telephone company, all of which are outside the control of the PSAP.

TracFone's proposal to provide wireless Lifeline services to eligible residents in the Commonwealth is truly unique from similar services offered through traditional wireline providers. When you are contacted by TracFone, I strongly encourage your timely support of their request to effect the appropriate certification of your PSAP.

TracFone LifeLine Service
October 16, 2008
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Should you have any questions, please do not hesitate to contact me at (717) 651-2288 or via email at rwentzel@state.pa.us.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and curves, positioned over the typed name and title.

Robert P. Wentzel
Director
Bureau of 911 Programs

RPW/prg

cc: 911 Program File

Monroe County Control Center

Monroe County Public Safety Center

100 Gypsum Road, Suite 2

Stroudsburg, Pa. 18360

570-992-4500

Fax 570-402-8890

December 4, 2008

Michael McAllister, Esquire
Shutts & Brown, LLP
200 East Broward Boulevard, Suite 2100
Fort Lauderdale, FL 33301

Re: **2nd Request for TracFone Certification**

Dear Mr. McAllister;

I am responding to your email that I received today relative to your request for us to sign-off for TracFone certification.

It's my understanding that TracFone has petitioned the Federal Communications Commission (FCC) to release them from the PSAP certification process.

Our position remains the same with respect to "drive testing". If TracFone ever comes to the realization that the drive test process isn't about any 9-1-1 center directors "ego" but it is a validation process to insure that their equipment is working correctly.

The drive testing will also reduce potential liability for them as well as the 9-1-1 center. By us just signing off without this validation process certainly passes on whatever liability comes out of an incident where the outcome for the wireless user isn't very good. I would hope that TracFone wants the best possible outcome when someone uses a device which they issued.

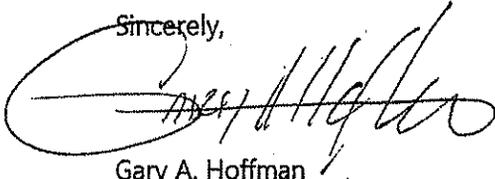
Clearly our position is as follows;

- We are not going to entertain signing off until such time that the appropriate "drive tests" have been done and certified.
- We also elect to hear the results of the petition before the FCC.

In Monroe County, Pennsylvania at present, TracFone is required to drive test their devices. For specific information of how to facilitate those tests in our County you can direct TracFone to contact our deployment specialists; Essential Management Solutions LLC, specifically Mr. Thomas Rowe, Principal at 570-621-9000 or 484-678-4909 to discuss the process from our agencies perspective and requirements.

Thank you and I hope you have a happy holiday season.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Hoffman", written over a horizontal line.

Gary A. Hoffman
Director of Communications

Cc: Robert Wentzel, 9-1-1 Bureau Director – PEMA
Federal Communications Commission
David Williamson, Esquire (Solicitor)
Tom Rowe, Essential Management Solutions, LLC.

Monroe County Control Center

Monroe County Public Safety Center
100 Gypsum Road, Suite 2
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570-992-4500
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October 17, 2008

Michael McAllister, Esquire
Shutts & Brown, LLP
200 East Broward Boulevard, Suite 2100
Fort Lauderdale, FL 33301

Re: *TracFone Certification Request*

Dear Mr. McAllister;

I am responding to your email request for certification within the Commonwealth of Pennsylvania specifically Monroe County. I am the 9-1-1 Coordinator for Monroe County and my agency, the Monroe County Control Center is the authorized public safety answering point (PSAP) for the geographic area of Monroe County and Lehman Township in Pike County, Pennsylvania.

I can and will attest to the fact that our 9-1-1 center is "Phase II" deployed with our current wireless carriers, Verizon, AT&T, Sprint, T-Mobile, Nextel and South Canaan Wireless.

However since TracFone was not part of the original Commonwealth of Pennsylvania's Act 56 Wireless program or our communications center's wireless deployment process I cannot make any claims to the technological capabilities of whether or not TracFone's equipment will integrate. This validation can only be determined through the process known as "drive tests", the same tests conducted by the other wireless carriers.

One thought or concern that has surfaced thinking about this entire initiative; I wonder if TracFone and the carriers that they contract to provide the actual wireless service, the phone call, understand the potential liability and subsequent ramifications that could be there if the "devices" do not provide the Phase II location information.

Specifically, if TracFone uses AT&T for the wireless infrastructure/system to deliver the phone call to us and the AT&T infrastructure is Phase II compliant however the device, the phone that TracFone has issued the client does not transmit the Phase II location information to the dispatcher because of TracFone's selection of equipment who's liable?

Consider the primary purpose of what this initiative has been developed for. TracFone is facilitating this to provide emergency cell phones to those people that may not normally be able to afford a phone. You really may not be helping.....actually if your devices are not Phase II compliant and provide us only what tower/antenna sector the call is coming from that is not

helping the person making the call. The person making the call could be literally miles away from their actual location.

To determine or certify if TracFone's wireless devices are Phase II compatible they will be required to conduct the drive tests. And unfortunately even though the Federal Communications Commission (FCC) wants 9-1-1 centers to sign a document conversely it does not provide the 9-1-1 centers with the funding necessary to facilitate "drive tests".

Since TracFone is not part of the Commonwealth of Pennsylvania's legislatively imposed Act 56 Wireless surcharge I cannot in good conscious utilize the funds that were remitted by other carriers to pay for the drive testing to validate TracFone's wireless equipment.

So that TracFone can validate the accuracy of their equipment they will be responsible to engage (*pay for*) a contractor to facilitate these tests.

If TracFone has a sincere interest in having their network integrated into our E-9-1-1 telephone infrastructure they should be directed to contact our deployment specialists; Essential Management Solutions LLC, specifically Mr. Thomas Rowe, Principal at 570-621-9000 or 484-678-4909 to discuss the process from our agencies perspective and requirements.

I will forward your request on to our solicitor for his opinion about signing your document however until I receive that information back this letter is our response to your request.

Thank you for your time and have a nice day.

Sincerely,

Gary A. Hoffman
Director of Communications

Cc: Robert Wentzel, 9-1-1 Bureau Director – Pennsylvania Emergency Management Agency
Federal Communications Commission
David Williamson, Esquire
Tom Rowe, Essential Management Solutions, LLC.