

**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.)	
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Petition for Designation as an Eligible Telecommunications Carrier in the State of New York)	
)	
Petition for Designation as an Eligible Telecommunications Carrier in the State of Florida)	
)	
Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia)	
)	
Petition for Designation as an Eligible Telecommunications Carrier in the State of Connecticut)	
)	
Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Massachusetts)	
)	
Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama)	
)	
Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina)	
)	
Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee)	
)	
Petition for Designation as an Eligible Telecommunications Carrier in the State of Delaware for the Limited Purpose of Offering Lifeline Service to Qualified Households)	
)	
Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire for the Limited Purpose of Offering Lifeline Service to Qualified Households)	

Petition for Designation as an Eligible)
 Telecommunications Carrier in the Commonwealth of)
 Pennsylvania for the Limited Purpose of Offering)
 Lifeline Service to Qualified Households)
)
 Petition for Designation as an Eligible)
 Telecommunications Carrier in the District of Columbia)
 for the Limited Purpose of Offering Lifeline Service to)
 Qualified Households)

**REPLY COMMENTS ON PETITION FOR MODIFICATION OF PUBLIC
 SAFETY ANSWERING POINT CERTIFICATION CONDITION**

TracFone Wireless, Inc. (“TracFone”) hereby submits its reply to the comments filed in response to its above-captioned petition for modification of the Public Safety Answering Point certification condition.

On November 21, 2008, TracFone petitioned the Commission to modify the Public Safety Answering Point (“PSAP”) certification requirement imposed on TracFone by the Commission as a condition to its being designated as an Eligible Telecommunications Carrier (“ETC”) for the limited purpose of offering Lifeline service to low income households. TracFone described in detail how the PSAP certification condition had not worked as intended; how PSAPs in certain jurisdictions had refused to provide such certifications despite many months of effort by TracFone -- directly and through consultants and law firms -- to obtain the requisite certifications; and how the refusal of certain PSAPs to provide the certifications was preventing TracFone from offering Lifeline service to thousands of low-income households. TracFone then proposed that it be allowed to self-certify that its Lifeline customers are able to access 911 and E911 without regard to activation status or availability of prepaid minutes, ninety days following the request to the PSAP. TracFone further proposed that such self-certification

would be permissible only upon TracFone confirming with its underlying carriers that TracFone customers' 911 calls are treated in the same manner as the underlying carriers treat their own retail customers 911 calls.¹

Although several parties filed comments on TracFone's petition, none opposed TracFone's proposed modification of the PSAP certification condition. Among those commenters, several, including the National Emergency Number Association ("NENA"), noted that the Commission had imposed a separate requirement on TracFone that it self-certify that it is in compliance with state and local 911 laws. NENA even suggested that TracFone self-certifications of 911 access should be "valid" only if TracFone has provided to the Commission a certification of state law compliance.²

There is no reason to link the two very separate and different certification requirements. They were imposed by the Commission at different places in the order designating TracFone as an ETC,³ and for very different purposes. Nonetheless, as NENA acknowledges, TracFone already has submitted to the Commission state law compliance certifications for nearly all of the states for which it has been designated by the Commission as an ETC (which includes all of the states for which TracFone currently is attempting to obtain PSAP certifications).⁴

¹ On December 23, 2008, TracFone supplemented its petition to provide the Commission with additional information and documentation regarding certain jurisdictions' PSAPs continuing refusals to provide certifications for reasons having nothing to do with whether TracFone Lifeline customers will be able to access 911 and E911 without regard to activation status or availability of prepaid minutes.

² NENA Comments at 3.

³ Federal-State Joint Board on Universal Service and TracFone Wireless, Inc., et al, 23 FCC Rcd 6206 (2008).

⁴ Several comments were also filed by entities from the State of Alabama. Although mostly unsigned, those comments appear to have been filed by representatives of local 911 departments. Each accuses TracFone of not collecting and remitting 911 fees on certain sales in Alabama.

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The Pennsylvania Public Utility Commission's ("PPUC") comments ask the Commission to further delay action on TracFone's petition and assert that the pleading cycle is "insufficient to properly address the claims about Pennsylvania's implementation of the FCC conditions regarding PSAP certification and compliance with state laws."⁵ This dilatory tactic should be seen for what it is -- an effort by the PPUC to tie together two separate conditions imposed by the Commission for separate and unrelated purposes -- and should be summarily rejected. TracFone's petition for modification only asks that the PSAP certification condition be modified. Nothing in that petition in any manner addresses or is relevant to the condition that TracFone certify to state law compliance. TracFone submitted its Pennsylvania state law certification on June 19, 2008. If the PPUC or any other party had any reason to question that certification, it has had nearly seven months to do so. No such challenges to that certification have been submitted.

The most significant comments are those of two nationally-prominent and respected consumer advocacy groups -- the National Consumers League, and Consumer Action. These groups' comments are of critical importance since they speak for many of the persons who will most benefit from TracFone's ability to offer Lifeline service -- low income consumers, including the elderly, recent immigrants, and economically-disadvantaged minorities. Both of those groups endorse TracFone's proposal for modification of the PSAP certification requirement. As noted by Consumer Action, "[w]ithout these certifications, TracFone will not be allowed to offer its Lifeline service to low income households in those jurisdictions, and

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Significantly, TracFone filed with the Commission its state law compliance certification on August 18, 2008. To date, no one, including any of the Alabama entities submitting unsigned comments in this proceeding, have challenged or disputed TracFone's Alabama state law compliance certification.

⁵ PPUC Comments at 1.

possibly other jurisdictions where it has been designated as an Eligible Telecommunications Carrier.”⁶ Moreover, Consumer Action points out correctly that TracFone already has obtained PSAP certification in several states and since TracFone uses the same underlying carriers’ networks and provides its customers (including Lifeline customers) with E911-compliant handsets in all states where it offers service, there is no reason to question that TracFone customers will have access to 911 and E911 in all states.⁷

TracFone is ready, willing and able to provide its SafeLink Wireless service, including free handsets and free quantities of monthly airtime, to low income Lifeline-eligible households in those jurisdictions, such as the District of Columbia, Pennsylvania and New Hampshire -- where the PSAP certification process remains bogged down in interminable bureaucratic delay. Already thousands of low income consumers in Virginia, Tennessee, and Florida are receiving Lifeline benefits from TracFone.⁸ Given the current economic conditions and the financial hardships being endured by millions of low income Americans, it is shameful that certain state and local governments are depriving an important economic benefit to those persons for reasons which are wholly irrelevant to the question of whether those persons will have access to 911 and E911 without regard to activation status or availability of prepaid minutes -- the only matter about which PSAPs have been asked to certify.

⁶ Consumer Action Comments at 1.

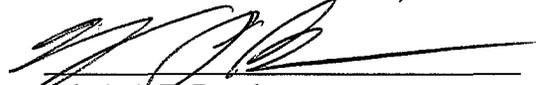
⁷ *Id.*

⁸ TracFone expects to begin providing SafeLink service in Massachusetts shortly and has already commenced enrolling customers there. Also, on January 9, TracFone received the welcome news that it has been awarded statewide PSAP certification in Connecticut. It looks forward to providing SafeLink service in that state very soon.

Accordingly, TracFone respectfully urges the Commission to grant its petition for modification expeditiously so that it can commence offering its SafeLink Wireless Lifeline service in all jurisdictions where it has been or will be designated as an ETC.

Respectfully submitted,

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