

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

In the Matter of)	
)	
PETITION FOR RULEMAKING TO)	
REVISE UNIVERSAL SERVICE)	RM-11526
SUPPORT AVAILABLE TO ELIGIBLE)	
TELECOMMUNICATIONS CARRIERS)	

COMMENTS OF THE

INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits comments on the above-referenced petition of TracFone Wireless, Inc. (TracFone).¹ ITTA is an alliance of mid-size telephone companies. ITTA members collectively serve 30 million access lines in 44 states, and offer subscribers a broad range of high-quality wireline and wireless voice, data, Internet, and video services.

TracFone asks the Commission to amend Commission Rule 54.403(a)(1)² in order to make available to all eligible telecommunications carriers (ETCs) Tier 1 Lifeline support of \$6.50 per customer, provided those ETCs pass the full amount of Lifeline support through to the Lifeline customer. In brief, ITTA supports the interest in consumer welfare the Petition seeks to address, but recommends that the Commission consider the Petition within the context of overall comprehensive Universal Service Fund (USF) reform, rather than as a stand-alone rule-making.

¹ Public Notice, Report No. 2885, RM-11526 (rel. Mar. 30, 2009).

² 47 CFR § 54.403(a)(1).

Tier 1 support is designed to offset the subscriber line charge (SLC), which is currently capped at \$6.50. The orientation of Tier 1 support to the SLC reflects the fact that this level of support acts as a “reasonably proxy” for interstate loop costs.³ Accordingly, incumbent local exchange carriers (ILECs) providing Lifeline service are entitled to Tier 1 support in an amount equal to the SLC they charge. That level of support is extended to competitive eligible telecommunications carriers (CETCs), who are entitled to an amount equal to the Tier 1 support received by the relevant ILEC. TracFone asks the Commission to disassociate Tier 1 support from the SLC charged by the ILEC, and to instead declare that Tier 1 support for all ETCs be fixed at \$6.50 per month.

TracFone’s interest in increasing consumer benefits is commendable. It is not clear, however, that the process outlined in the Petition is the best, or even a reasonable, approach. In the first instance, the Petition does not offer clear empirical evidence to support the proposition that an across-the-board increase in Tier 1 Lifeline support will improve Lifeline subscription. Currently, carriers are subject to various requirements intended to improve Lifeline subscription, including rate adjustments and advertising requirements intended to provide effective avenues for carriers to publicize Lifeline (and Link-Up) to eligible consumers. It is not clear whether the varying rate decreases that

³ See, *Federal-State Joint Board on Universal Service: Report and Order*, CC Docket No. 96-45, FCC 97-157, at para. 367 (1997) (“ . . . we are therefore confident that this [SLC] amount is a reasonable proxy for the interstate portion of other eligible telecommunications carriers’ costs. Thus, we conclude that we may require an amount equal to the SLC cap for primary residential and single-line business connections to be deducted from carriers’ end-user charges without infringing on state ratemaking authority.”)

would be occasioned by grant of the Petition (based upon the variance in SLC charges) would tend to result in increased subscription rates or otherwise make telephone service qualitatively more affordable. By way of example, Cincinnati Bell charges a \$5.31 SLC in Kentucky. Under the TracFone petition, Tier 1 Lifeline support would increase \$1.19 per month in that area – but, the Petition does not approach, for example, the question of whether the additional \$1.19 would increase Lifeline subscription rates in that state, and, if so, to what extent. Analysis of this issue would benefit from a price elasticity study. Consideration would also need to include state Lifeline support. For example, TracFone references Massachusetts as a state in which ETCs must provide \$16.00 in Lifeline discounts,⁴ and states that after Federal Lifeline support reimburses an ETC \$10.00, the remaining \$6.00 must be paid by the ETC. TracFone, however, makes no mention of the Lifeline reimbursement that comes from state programs, a matter that would weigh heavily when considering whether Lifeline rates in any given state are affordable, or not; comprehensive consideration of the Petition accordingly warrants a state-by-state analysis.

A state-by-state breakdown of the Petition is also necessary in order to calculate the going-forward increase in the USF that grant of the Petition would engender. Currently, only 15 states, and Puerto Rico and the Virgin Islands, charge the highest permissible SLC. Since grant of the Petition would increase Lifeline support in the 35 remaining states, relevant data is necessary in order to enable a proper cost/benefits analysis. ITTA has previously urged the Commission to contain unnecessary USF growth. Action that would result in an increased Fund size demands proper justification,

⁴ Petition at 3.

as well as information relating to the projected size of the increase. By contrast, the TracFone petition implicates an increase in the size of the USF, but does not quantify that amount. Proper consideration of the Petition cannot occur absent that information.

In addition to arguing for an un-quantified increase in the size of the Fund, the Petition also disregards the rationale upon which current Tier 1 support is premised. Tier 1 support today is intended to be a proxy for interstate loop costs, and relies upon the determination that the SLC represents a fair approximation of that amount. Accordingly, the variance among states and carriers is a natural reflection of loop cost characteristics that may tend to differ from region to region. The uniform discount proposed by TracFone brushes this aspect aside; TracFone's interest in a non-cost-based support mechanism is illustrated by its assessment that "[a] specific ILEC's SLC in no way accounts for or reflects costs incurred by non-ILEC ETCs, including wireless ETCs, that have completely different cost structures and business models than ILECs subject to the Commission's rules governing SLCs." More broadly, this aspect of the petition implicates the on-going debate regarding the identical support rule, which has been singled out by industry and regulators as a flawed device in need of reform. Grant of the TracFone petition would seem to simply expand the flawed philosophy of identical support.

Ultimately, the issues raised by TracFone's filing extend beyond the four corners of the petition. For example, if Lifeline support is wholly divorced from carrier costs, should that support be modified to be based upon a benchmark Lifeline rate that enables eligible subscribers throughout the Nation to obtain service at a uniform rate?

Alternatively, if Lifeline support continues to be premised on the notion of relieving

subscribers of interstate costs, does a uniform discount rate conflict with that approach, and does that uniform rate compound or otherwise mirror the ill effects of the identical support rule?

In short, the TracFone Petition poses a noble consumer-interest objective, but fails to demonstrate empirically either the costs or benefits of its proposal; at the least, if the current Lifeline program requires refinement, then reasonable analysis of the TracFone proposal should include consideration of other means to attain whatever goals may be identified. This analysis should include consideration of the impact any proposal might have on the size of the Fund, and issues related generally to affordability. These are matters highly suited to investigation as the Commission continues its comprehensive re-examination of the USF structure. Accordingly, ITTA recommends that consideration of the TracFone petition be deferred to the general USF reform docket, and that ultimate reformation of Tier 1 support matters may be best addressed following disposition of the identical support rule and implementation of cost-based mechanisms for competitive carriers.

Respectfully submitted,

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