



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
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IN REPLY PLEASE
REFER TO OUR FILE

July 6, 2009

By Electronic Filing

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

RE: Petition of TracFone Wireless, Inc. for Modification of Annual Verification Condition in the FCC's 2005 Forbearance Decision Docket No. 96-45.

RE: Petition of TracFone Wireless, Inc. for Waiver of Rule 54.403(a)(1), 47 C.F.R. § 54.403(a)(1) governing Tier 1 Lifeline Support, Docket Nos. 96-45 and WC 03-109.

Dear Secretary Dortch:

Please accept this filing as the Comments of the Pennsylvania Public Utility Commission (PaPUC) in the above-referenced dockets. The PaPUC opposes the petitions. The PaPUC believes that the Federal Communications Commission (FCC) should deny the petitions and relief for the reasons set forth below.

On April 27, 2009, TracFone Wireless, Inc. (TracFone) filed a petition (the April 2009 Petition) with the Federal Communications Commission asking the FCC to modify a condition imposed on TracFone in 2005 when the FCC granted TracFone forbearance from the statutory obligation to own at least some physical facilities, a condition required to obtain Eligible Telecommunications Carrier (ETC) designation under Section 254, 47 U.S.C. § 254, of the Telecommunications Act of 1996 (TA-96). The FCC published notice of the April 2009 TracFone petition on June 5, 2009.

In the April 2009 Petition, TracFone wants the FCC to modify the obligation to annually verify that its customers are heads of household and receive Lifeline support only from TracFone. Currently, TracFone does that through individual solicitations to its customers. TracFone now seeks permission to comply with this obligation by using a statistically valid sample instead of verification from every customer.

In addition to the April 2009 Petition, TracFone asked the FCC on May 4, 2009 to waive the FCC's rules that link Lifeline support to an Incumbent's Subscriber Line Charge (SLC) (the May 2009 Petition). The May 2009 Petition asks the FCC to waive the rule so that TracFone can obtain the maximum federal Lifeline support of \$6.50 regardless of a SLC since TracFone, as a wireless carrier, has no SLC to collect. The FCC published notice of this May 2009 TracFone petition on June 5, 2009.

The Pennsylvania Public Utility Commission (PaPUC) opposes the April and May 2009 petitions. These latest requests for special accommodations to facilitate TracFone's securing funding from the Lifeline program reiterates the need for the FCC to comprehensively reexamine the regulatory treatment of TracFone, beginning with the 2005 Forbearance decision.

The April and May 2009 petitions are yet another in a series of pleadings in which TracFone regularly asks the FCC to grant it special accommodations or regulatory exemption from the statutory and regulatory obligations imposed on other Lifeline providers. TracFone's pleading history is replete with such requests.

In the 2005 Petition, TracFone sought forbearance from the Section 254 statutory mandate to own at least some facilities in order to become an ETC. In the second petition, TracFone sought modification of the condition that TracFone obtain Public Safety Answering Point (PSAP) verification that TracFone's customers' 911 calls will actually be delivered to the appropriate PSAP. In another proceeding, TracFone opposes the Pennsylvania Emergency Management Agency (PEMA) request to revoke

TracFone's "self certification" that it complies with state laws governing 911 services based on that agency's expert conclusion that TracFone is not complying with state law.

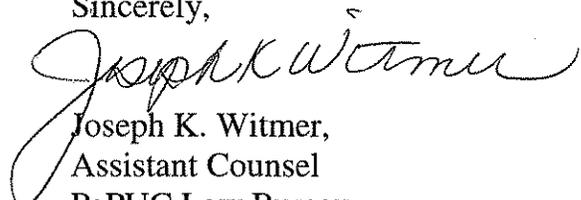
The PaPUC has a pending petition before the FCC seeking reconsideration of the relief granted from the obligation to obtain PSAP verification. The PaPUC also has an accompanying request asking the FCC to reexamine the 2005 Forbearance decision and the related TracFone decisions.

The PaPUC maintains that denial of these latest petitions is appropriate. The PaPUC also maintains that reexamination of the 2005 Forbearance decision is appropriate based on the FCC's 2005 statement that it would reexamine forbearance if the "predictive effect" were different from what was anticipated. The PaPUC further maintains that the FCC should grant the timely filed reconsideration petition of the PaPUC on the PSAP verification relief granted by the FCC.

These unending special accommodation and exemption petitions are stark evidence that the predictive effect in 2009 is very different from the effect the FCC expected in 2005. Petition seeking more special treatment so soon after granting the PSAP verification relief supports reconsideration of that decision.

The FCC should deny the April and May 2009 petition and grant the PaPUC's requests. That action will prevent further harming an effective Lifeline program.

Sincerely,



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