



State of Rhode Island and Providence Plantations

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*Patrick C. Lynch, Attorney General*

July 2, 2010

Luly Massaro, Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Blvd.  
Warwick, RI 02888

**Re: TracFone Wireless Petition for ETC Status Docket No. 4153**

Dear Ms. Massaro,

Enclosed for filing with the Commission is an original and nine (9) copies of the Division's Comments to TracFone's Petition requesting ETC status in the above matter.

Thank you for your attention to this matter.

Very truly yours,

Jon G. Hagopian

Special Assistant Attorney General

cc: Service List (e-mail only)

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION**

**IN RE: PETITION OF TRACFONE WIRELESS, INC. :**  
**FOR DESIGNATION AS AN ELIGIBLE :**  
**TELECOMMUNICATIONS CARRIER IN THE STATE :DOCKET NO. 4153**  
**OF RHODE ISLAND FOR THE LIMITED PURPOSE :**  
**OF OFFERING LIFELINE SERVICE TO QUALIFIED :**  
**HOUSEHOLDS :**

**STATE OF RHODE ISLAND DIVISION OF PUBLIC UTILITIES AND  
CARRIERS COMMENTS RELATING TO PETITION OF TRACFONE  
WIRELESS, INC. FOR DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER IN THE STATE OF RHODE ISLAND  
FOR THE LIMITED PURPOSE OF OFFERING LIFELINE SERVICE TO  
QUALIFIED HOUSEHOLDS**

**INTRODUCTION**

Now comes the State of Rhode Island Division of Public Utilities and Carriers (the “Division”) and hereby submits the accompanying comments to the instant Petition (the “Petition”) of TracFone Wireless, Inc. (“TracFone”) who requests designation as an eligible telecommunications carrier (“ETC”) for the sole purpose of offering Lifeline service to qualified low-income customers of the State of Rhode Island. TracFone has applied to the Rhode Island Public Utilities Commission (the “Commission”) for ETC designation pursuant to Section 214 (e)(2) of the Communications Act of 1934, as amended (the “Communications Act”) and Section III of the Commission’s ETC Rules<sup>1</sup>.

TracFone is a non-facilities based commercial mobile radio service (“CMRS”) provider of prepaid wireless communications services.<sup>2</sup> TracFone offers its wireless services throughout the United States, including in the State of Rhode Island for the past

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<sup>1</sup> Rules and Regulations Governing the Certification and Verification Procedures for Telecommunications Carriers Eligible to receive Payments from the Federal Universal Service Fund and Certification and Verification Processes for Compliance with Providing Lifeline and Linkup Service, effective February 4, 2010 (“Commission ETC Rules”).

<sup>2</sup> TracFone is a pure wireless reseller, **See In the Matter of Federal-State Joint Board on Universal Service Petition of TracFone for Forbearance from 47USC §214(e)(1)(A) and 47CFR §54.201 (i)** 20 FCC Rcd 15095 (2005) (“TracFone Forbearance Order”) at 1, ¶2.

ten years.<sup>3</sup> TracFone avers that it has the capability to offer all services and functionalities supported by the universal service program, as set-forth in 47 C.F.R. § 54.101 (a) of the Federal Communications Commission (“FCC”) Rules and Commission ETC Rule, § II A through arrangements it has with underlying carriers such as AT&T Mobility, T-Mobile and Verizon Wireless.<sup>4</sup> TracFone plans to offer Lifeline customers free monthly service, free airtime each month and a free handset.

### **HISTORICAL BACKGROUND**

On September 8, 2005, the Federal Communications Commission (the “FCC”) conditionally granted TracFone’s request for forbearance (the “Forbearance Order”) from facilities requirements of section 214 (e)(1) of the Communications Act. The Forbearance Order provided inter alia that TracFone offer its Lifeline customers 911 and E911 services.<sup>5</sup> The FCC also ordered that TracFone obtain a certification from each Public Safety Answering Point (“PSAP”) that TracFone complies with the 911 and E911 service provision. The FCC reasoned in granting TracFone’s forbearance request, that where TracFone was “foregoing all universal service support but Lifeline”, there was no need for the facilities requirement to ensure that its charges, practices and classifications are just and reasonable.<sup>6</sup> Subsequently, on April 11, 2008, the FCC granted TracFone ETC status subject to the conditions of the Forbearance Order.

Finally, on March 5, 2009 TracFone was granted FCC relief from the requirement of obtaining PSAP certification confirming that it provides 911 and E911

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<sup>3</sup> TracFone Petition for ETC Designation, at 2, RIPUC Docket 4153.

<sup>4</sup> 47 CFR §54.101 (a) and Commission ETC Rule IIA set-forth similar service requirements.

<sup>5</sup> TracFone Forbearance Order at 8, ¶16.

<sup>6</sup> TracFone Forbearance Order at 7, ¶13-15.

service. This relief allowed TracFone to self-certify 911 and E911 compliance if the PSAP fails to certify compliance within Ninety (90) days of TracFone's request.

### **DISCUSSION**

Turning now to the instant petition of TracFone requesting the Commission grant it ETC status. TracFone's Petition here seeks the Commission grant it ETC status for the sole purpose of offering Lifeline service to qualified low-income customers of the State of Rhode Island. TracFone asserts in the Petition that it will not be seeking USF funds for purposes of providing services to high cost service areas.<sup>7</sup>

The Petition of an entity seeking ETC status in the State of Rhode Island is required to set-forth certain elements as provided for in Section III of the Commission's ETC Rules as follows:

- a. That the company is an authorized telecommunications carrier under the laws of the State of Rhode Island;
- b. That the company provides all federally-required and state-required services throughout its service area, and so advertises them in media of general circulation;
- c. That the company offers Lifeline and Linkup services that fully comply with the Federal and State requirements;
- d. That, if the company cannot provide certain required services (notably E911 and toll limitation), it has adopted a plan to provide them by a date certain. This plan will be reviewed as part of the review of the petition, and must be acceptable to this Commission.

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<sup>7</sup> TracFone Petition for ETC Designation, at 1, Docket 4153.

Similarly Section II A. of the Commission's ETC Rules provide, that to be eligible for designation as an ETC, the common carrier must offer the following:

1. Single-party service
2. Voice grade access to the public switched network
3. Dual-Tone Multi-Frequency Signaling or its functional equivalent
4. Access to emergency services (e.g., 911 and E911)
5. Access to operator services
6. Access to interexchange service
7. Access to directory assistance
8. Toll limitation for qualifying low-income consumers
9. Lifeline and Linkup service

TracFone states once granted ETC status, that it has the ability to deliver the functionalities and features it provides existing customers to qualified lifeline customers in the convenience of wireless service. TracFone asserts that its service complies with all service and functionalities required pursuant to FCC Rules and the Commission's ETC Rules.<sup>8</sup>

First, TracFone states it complies with state and federal requirements that it offer voice grade access to the public switched network.<sup>9</sup> This provides a caller the ability to send and receive voice communications on a network and also allows one to receive an incoming signal notifying of an incoming call.

Second, TracFone will comply with federal requirements that it offer a local usage plan to customers comparable to that offered the by incumbents LECS in the State

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<sup>8</sup> TracFone Petition for ETC Designation, at 9, Docket 4153.

<sup>9</sup> See 47 CFR §54.101 (a) (1) and Commission ETC Rule IIA (2).

of Rhode Island. It states Rhode Island subscribers of Lifeline service will receive local usage in their calling plan and receive 68 minutes of free wireless service which can be utilized for local calls if the caller elects.<sup>10</sup>

Third, TracFone represents that its handsets are dual tone multi-frequency (“DTMF”) signaling capable or its functional equivalent as required by FCC Rules and Commission ETC Rules.<sup>11</sup>

Fourth, TracFone represents that it provides single party service or its functional equivalent only and therefore complies with FCC Rules and Commission ETC Rules.<sup>12</sup>

Fifth, TracFone represents it will provide access to the 911 and E911 system services to its customers consistent with FCC Rules and Commission ETC Rules.<sup>13</sup>

TracFone as we have seen asserts that it offers its service as a reseller through arrangements it has with underlying carriers such AT&T Mobility, T-Mobile and Verizon Wireless. Through these networks a TracFone Lifeline customer will benefit from state of the art service reliability of the network vendors it has arrangements with as a reseller. The Division agrees that 911 and E911 capability is most important to phone subscribers particularly where TracFone’s may be the primary and sole means of phone service for these customers.

Sixth, TracFone will offer operator assistance to its customers in accordance with FCC Rules and Commission ETC Rules.<sup>14</sup>

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<sup>10</sup> See TracFone Petition for ETC Designation, at 10-11, Docket 4153 (offer of 67 free minutes-subsequently amended to 68 minutes by filing with Commission).

<sup>11</sup> See 47 CFR §54.101 (a) (3) and Commission ETC Rule II A (3).

<sup>12</sup> See 47 CFR §54.101 (a) (4) and Commission ETC Rule II A (1).

<sup>13</sup> See 47 CFR §54.101 (a) (5) and Commission ETC Rule II A (4).

<sup>14</sup> See 47 CFR §54.101 (a) (6) and Commission ETC Rule II A (5).

Seventh, TracFone will offer customers access to an interexchange carriers network or long-distance carrier service as required by FCC and Commission ETC Rules.<sup>15</sup> TracFone represents it will provide this service at no charge to its customers.

Eighth, TracFone represents that all of its customers enjoy access to directory assistance in compliance with FCC Rules and Commission ETC Rules.<sup>16</sup>

FCC Rules and Commission ETC Rules both require carriers seeking ETC status to offer toll limitation for qualifying low-income subscribers, which allows the customer to block an outgoing call.<sup>17</sup> TracFone asserts that since it is a prepaid service there is no threat that its customers will incur “heavy” toll charges or be disconnected for failure to pay for charges and therefore there is no need for TracFone to offer toll limitation services.<sup>18</sup> TracFone reasons that its customers can limit their toll charges and can only use that time for which they have purchased.

Next, TracFone represents that it will be able to serve the designated areas in Rhode Island within a reasonable time since the networks it resells through are already established and built out. The only conceivable delay according to TracFone would be the ramp up time necessary to implement procedures and internal systems to offer the Lifeline program it proposes.<sup>19</sup> Further, TracFone states that its service quality and reliability is the same as the wireless service carriers it resells through. TracFone believes because it is a reseller, it is therefore on equal ground with any other wireless service provider in the Rhode Island market.<sup>20</sup>

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<sup>15</sup> See 47 CFR §54.101 (a) (7) and Commission ETC Rule II A (6).

<sup>16</sup> See 47 CFR §54.101 (a) (8) and Commission ETC Rule II A (7).

<sup>17</sup> See 47 CFR §54.101 (a) (9) and Commission ETC Rule II A (8).

<sup>18</sup> See TracFone Petition for ETC Designation, at 13, Docket 4153.

<sup>19</sup> Id. at 14.

<sup>20</sup> Id.

TracFone emphasizes that it has previous experience marketing Lifeline service and has had success in those efforts.<sup>21</sup> TracFone intends to use print and broadcast media as a means of attracting potentially eligible Lifeline customers.<sup>22</sup>

TracFone consents to complying with Lifeline certification and verification rules of the FCC and the Commissions ETC Rules.<sup>23</sup> TracFone acknowledges it must coordinate with the Department of Human Services and the Department of Administration, Division of Planning in efforts to certify and verify eligibility of its Lifeline customers.<sup>24</sup>

TracFone proposes to offer service in all areas of the State of Rhode Island served by AT&T Mobility, T-Mobile and Verizon Wireless. TracFone asserts that Rhode Island is comprised of only non-rural service areas and for this reason therefore there is no limitation on the manner the Commission defines the “service area” in the process of designating a competitive ETC. TracFone thus posits that the Commission may designate TracFone as an ETC in non-rural service areas that it offers service without redefining the service areas of non-rural telephone companies such as Verizon.

TracFone believes that its service is in the public interest by benefiting low – income individuals. According to TracFone, its wireless phone service will benefit those who might not otherwise have phone service, assist in emergencies, job search efforts and maintaining communications with members of family.<sup>25</sup>

TracFone urges that its offering prepaid wireless service provides consumers with another alternative that is convenient and affordable. TracFone notes that there are only

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<sup>21</sup> Id at 15.

<sup>22</sup> Id.

<sup>23</sup> See 47 CFR §54.410 and Commission ETC Rule §§ V & VI.

<sup>24</sup> See TracFone Petition for ETC Designation, at 16, Docket 4153.

<sup>25</sup> See TracFone Petition for ETC Designation, at 18, Docket 4153.

two ETC's in Rhode Island neither of whom offer the type of wireless service proposed by TracFone.<sup>26</sup> TracFone reports that FCC statistics indicate that, 59.1 percent of Rhode Islander's eligible, participate in Lifeline programs with a balance of forty percent eligible but not participating.<sup>27</sup> TracFone believes that, if its wireless service is available, eligible Rhode Island consumers will participate in this proposed Lifeline service.<sup>28</sup>

The Division recognizes and supports the principle that, a competitive marketplace is beneficial to ratepayers. If TracFone directly competes for customers in the market, ratepayers will likely be the beneficiaries of better service quality, pricing and other attributes of direct head to head competition. The Division also sees the potential to reach those forty percent of the consumers who are eligible but not participating in Lifeline programs, if a pre-pay lifeline wireless service is a true motive to attract low-income consumers to TracFone's Lifeline wireless service. After review of the instant Petition and accompanying attachments, the Division believes TracFone has satisfied its burden of compliance with FCC Rules and the Commission's ETC Rules. For the foregoing reasons the Division has no objection to the Commission granting TracFone ETC status conditioned upon the representations in its Petition.

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<sup>26</sup> See TracFone Petition for ETC Designation, at 20, Docket 4153.

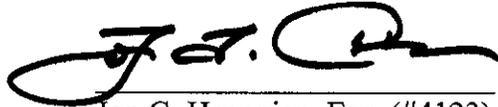
<sup>27</sup> Id.

<sup>28</sup> Id.

Respectfully submitted,

Thomas Ahern, Administrator  
State of Rhode Island  
Division of Public Utilities and  
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By his attorney,



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**CERTIFICATION OF SERVICE**

I hereby certify that on the 2d day of July, 2010, that I transmitted an electronic copy of the within Comments to the attached service list and to Luly Massaro, Commission Clerk via electronic mail and regular mail.



**Docket No. 4153 – TracFone Wireless - ETC Designation Petition  
Service List as of 5/27/10**

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