

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

TRACFONE WIRELESS, INC.

For Exemption From WAC 480-123-030(1)(d), (f) and (g); and Designation as an Eligible Telecommunications Carrier For the Purpose of Receiving Lifeline Support From the Federal Universal Service Fund

DOCKET UT-093012

JOINT MOTION TO AMEND  
SETTLEMENT AGREEMENT, AND  
NARRATIVE IN SUPPORT

**I. INTRODUCTION**

1 In Order 03, issued on June 24, 2010, the Commission adopted, with conditions, the Settlement Agreement entered into between TracFone, Inc. (“TracFone”) and Commission Staff (“Staff”) in this docket. One of the conditions, set forth as Condition 6 of Attachment 2 to the Settlement Agreement, requires TracFone to offer a subsidized version of its Straight Talk™ service to Lifeline customers by October 24, 2010. On August 30, 2010, TracFone filed a motion requesting that the Commission amend Order 03 and the parties’ settlement agreement to remove this requirement. In its motion, TracFone stated that it had expanded its Lifeline offerings in all states, including Washington, on August 16, 2010, and further stated that these additional offerings address the public policy concerns underlying the requirement to offer Straight Talk™ service.

2 In Order 04, issued September 3, 2010, the Commission directed the parties to submit a modified Settlement Agreement and supporting documentation by September 30, 2010. Pursuant to that order, TracFone and Staff jointly request that the Commission modify Order 03 and amend the parties' Settlement Agreement as set forth below.

## II. PROPOSED AMENDMENT TO SETTLEMENT AGREEMENT

3 The parties propose that Attachment 2 to the Settlement Agreement be amended to delete the current Condition 6, and insert a new Condition 6 as a replacement, as follows:

### **Proposed Amendment to Attachment 2 of the Settlement Agreement Between Staff and TracFone**

#### **Delete:**

6. TracFone must offer Washington customers a discounted version of its Straight Talk plans, as described in its petition and amendments to the petition, within four months after the Commission approves its ETC application. Within one year after the Commission approves TracFone's ETC application, TracFone shall offer Washington customers a discounted version of its Straight Talk plans through retail locations in Washington. At least 30 days prior to offering its discounted version of its Straight Talk plans to Lifeline customers, TracFone must make a compliance filing for approval by the Commission containing the rates, terms and conditions of service that apply to the discounted Straight Talk Lifeline services offered by TracFone in Washington state and detailed procedures explaining how eligible customers may participate in its discounted Straight Talk Lifeline services. Commission Staff shall review TracFone's compliance filing and recommend to the Commission whether it should be approved or rejected within ten business days. TracFone shall not offer discounted Straight Talk lifeline services until the Commission has approved its compliance filing specific to Straight Talk's Lifeline services.

#### **Insert:**

6. TracFone will offer Washington customers Lifeline service consisting of the three options listed in Table 1 below. During this interim period (i.e., the time until the Commission issues an order recertifying TracFone's ETC designation for Lifeline services), the following conditions will apply to the plans:
  1. Plan 1 and Plan 2 will be offered throughout the interim period. TracFone will have the ability to change these plans, in accordance with Condition No. 3 to Attachment 2 of the Settlement Agreement, but must not eliminate these plans.

2. Plan 3 must be offered throughout the interim period. TracFone must offer a minimum of 250 minutes. The company may invoke Condition No. 3 to Attachment 2 of the Settlement Agreement only for the purpose of increasing the number of minutes in this plan.

Customers may switch from one SafeLink® plan to another SafeLink® plan by contacting Customer Care. A change in plan requested by the 25<sup>th</sup> day of a month will take effect at the beginning of the next month.

Table 1 – SafeLink Wireless® Plan Options					
	<b>Free Monthly Minutes Included in Plan</b>	<b>Unused Minutes Carryover Each Month</b>	<b>Text Message Charge*</b>	<b>Free International Long Distance</b>	<b>Voicemail Caller ID Call Waiting</b>
<b>Plan 1</b>	68 in all states (80 in MA)	Yes	3 Texts/1 Minute	Yes	Yes
<b>Plan 2</b>	125	Yes	1 Text/1 Minute	No	Yes
<b>Plan 3</b>	250	No**	1 Text/1 Minute	No	Yes

\*These text messaging rates will apply even if a different text messaging rate is stated on an airtime card. \*\*Phone will reset to 250 minutes each month when the monthly minutes are delivered and all unused minutes, including purchased airtime minutes and free monthly minutes from the previous month, will be lost.

The parties request that Order 03 be modified accordingly to permit the above amendment to the Settlement Agreement.

### III. NARRATIVE IN SUPPORT OF PROPOSED AMENDMENT TO SETTLEMENT AGREEMENT

4 Staff and TracFone agree that with the expansion of the SafeLink® calling options available to Lifeline customers, the need to continue the requirement to offer Straight Talk™ is no longer necessary. In the original Settlement Agreement, TracFone agreed to provide Washington lifeline customers two separate options: the first was SafeLink®, which

contained 68 minutes per month, while the second was Straight Talk™, a plan available to higher volume users in which the user was given a discount off of the retail price for Straight Talk™ services. However, TracFone has recently added two additional SafeLink® offers, one that offers 125 minutes per month, while the second new offer provides 250 minutes per month. Expanding SafeLink® from one service to three provides meaningful improvement for low income customers.

5           The Commission should note that there are other Lifeline providers that also offer different options to low income customers. The incumbent local exchange carriers provide Lifeline services with unlimited local calling. Wireless Lifeline providers offer expanded calling plans that are similar to the minutes and prices that TracFone's Straight Talk™ plan would have offered in the current settlement agreement.

6           The proposed amendment removes the Straight Talk™ requirement in condition number six and replaces it with the requirement that TracFone offer three SafeLink® calling plan options that provide low income users with a choice of 68, 125 or 250 minutes per month. Most significantly, the 250 minute option must be maintained for the duration of the interim period. This change is beneficial to customers and is consistent with the public interest. This is the only change to the original Settlement Agreement previously approved by the Commission on June 24, 2010. All other provisions of the Settlement Agreement remain intact.

**IV. CONCLUSION**

7 For the reasons set forth above, the parties request that the Commission modify Order 03 and amend the parties' Settlement Agreement, to replace the current Condition 6 in Attachment 2 with the revised Condition 6.

DATED this 28<sup>th</sup> day of September, 2010.

**TRACFONE WIRELESS, INC.**

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION  
STAFF**

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