

February 19, 2010

VIA E-MAIL AND OVERNIGHT MAIL

Mr. David Danner
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

**Re: Docket No. UT-093012 Application of TracFone Wireless, Inc.
for Designation as an Eligible Telecommunications Carrier for
the limited Purpose of Offering Lifeline Service to Low-Income
Washington Households**

Dear Mr. Danner:

This letter is in response to the February 18, 2010 letter in the above-captioned matter filed by Richard A. Finnigan. Although Mr. Finnigan's letter does not identify on whose behalf - if anyone's -- his letter was filed, Mr. Finnigan asks the Commission to take into account "actions taken by other state commissions in recent months." The purpose of this response is place the assertions in Mr. Finnigan's letter in a proper context and to provide further information to the Commission regarding the three state situations he identified, and to correct any misimpressions which may have been occasioned by that letter.

While Mr. Finnigan's letter purports to describe recent actions taken by state commissions, his description of such actions is incomplete. To date, TracFone has been designated as an ETC in no fewer than twenty-four jurisdictions. Several of those designations have been quite recent. For example, TracFone was designated as an ETC in Louisiana in December 2009. On February 8, 2010 (10 days prior to Mr. Finnigan's letter), the Maine Public Utilities Commission designated TracFone as an ETC. In those jurisdictions where TracFone has received ETC designation and where it has commenced offering its SafeLink Wireless® Lifeline service, TracFone is providing wireless Lifeline service to nearly three million households, including residents of homeless shelters, to whom wireless service would otherwise be unaffordable. Those nearly three million households have benefitted from this service and TracFone looks forward to bringing its Lifeline service to the State of Washington in the very near future.

We will address the three states referenced by Mr. Finnigan in the order in which they were raised.

California

By letter dated December 16, 2009, TracFone notified the California Public Utilities Commission (PUC) that it was withdrawing its petition for designation as an Eligible Telecommunications Carrier. It had become clear to TracFone that disagreements between TracFone and the PUC's staff regarding the application of provisions of the California Public Utilities Code would jeopardize timely approval of the ETC petition. Given those differences, TracFone determined that its resources and those of the PUC, its staff, and other interested persons, would be better spent seeking clarification of those provisions and establishment of appropriate rules to govern the collection and remittance of public purpose program fees from customers of prepaid wireless services. The PUC recently has commenced a rulemaking proceeding into the aforementioned fee questions (P.09-12-018). TracFone plans to participate actively in that proceeding along with other stakeholders. Upon resolution of those issues and establishment of appropriate rules, TracFone plans to renew its efforts to obtain ETC designation in California.

Idaho

On February 5, 2010, the Idaho Public Utilities Commission issued an order denying TracFone's application for ETC designation. Among the stated bases for that denial is that TracFone's certificate to transact business in Idaho had been revoked in 2004 for failure to submit an annual report. That failure, which was due to an oversight, has been corrected. TracFone is now registered to do business in Idaho and is in compliance with all applicable reporting requirements. In addition, the Idaho PUC concluded that TracFone does not meet the requirements of Section 214(e)(1) of the Communications Act of 1934, as amended (47 U.S.C. § 214(e)(1)). That statement is incorrect as a matter of law as TracFone has demonstrated conclusively that it is in full conformance with the requirements of 47 U.S.C. § 214(e)(1)(A) and (B). Moreover, the ETC-designating authorities in twenty-four jurisdictions have concluded that TracFone complies with those statutory requirements. Finally, the Idaho PUC stated that granting TracFone's application would not provide any additional benefit to subscribers or provide significant competition as other wireless ETCs are currently providing the same service that TracFone proposes to offer. That conclusion is factually incorrect and is wrong as a matter of law.

By now, the Washington UTC and its staff are familiar with TracFone's SafeLink Wireless® service. No other ETC in Washington or Idaho currently offers a Lifeline program like SafeLink Wireless®. No other ETC offers an entirely prepaid, free service, including free handsets, free usage, included vertical features, and no additional charges either for long distance or roaming. The Idaho PUC's conclusion is wrong as a matter of law because states, in their capacity as designators of ETCs, may not deny qualified ETC applicants solely because there are already other ETCs in the state. In this regard, the Commission's attention is directed to 47 U.S.C. § 214(e)(2) ("*a State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1)*"). TracFone will file with the Idaho PUC a petition for reconsideration on or about February 26 in which it

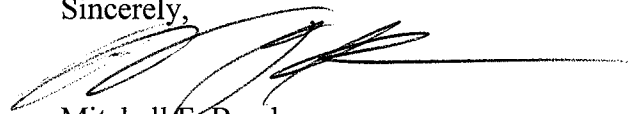
will identify the factual and legal errors which underlied the Idaho PUC's February 5 order. It fully expects that the Idaho PUC will reverse its legal errors, grant reconsideration and designate TracFone as an ETC.

Colorado

On December 22, 2009, TracFone notified the Colorado Public Utilities Commission that it was withdrawing without prejudice its application for ETC designation. As explained in that withdrawal notice, there remain unresolved questions about the applicability of that state's 911 fees to prepaid wireless services under current state law. TracFone has been working with members of the public safety/911 community to develop a legislative solution which will contain an appropriate fee collection and remittance process for prepaid wireless services. TracFone withdrew its ETC application so that those legislative efforts can proceed. Following enactment of appropriate 911 legislation, TracFone plans to resubmit its ETC application in Colorado.

TracFone has been continuously apprising the Commission and its staff of actions taken by other states during the pendency of its ETC application and it will continue to do so. I hope that this response clarifies the information contained in Mr. Finnigan's letter. If there are further questions, please do not hesitate to contact undersigned counsel for TracFone.

Sincerely,



Mitchell F. Brecher
Counsel for TracFone Wireless, Inc.

cc: Parties of record
Ms. Jing Liu
Mr. Tim Zawislak
Richard A. Finnigan, Esq.

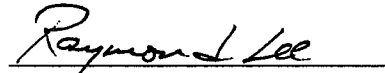
CERTIFICATE OF SERVICE

This is to certify that I have duly served a copy of the foregoing letter electronically and by U.S. Mail, postage prepaid, on all parties listed, this 19th day of February, 2010, addressed as follows:

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