

Greenberg Traurig

Mitchell F. Brecher
(202) 331-3152
BrecherM@gtlaw.com

Debra McGuire Mercer
(202) 331-3194
MercerDM@gtlaw.com

October 22, 2010

VIA OVERNIGHT MAIL

Mr. Dave Danner
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

2010 OCT 25 AM 9:41

Re: Virgin Mobile USA, L.P. - Docket No. UT-100203 - Non-Usage Procedure

Dear Mr. Danner:

By this letter, TracFone Wireless, Inc. ("TracFone") advises the Washington Utilities and Transportation Commission ("Commission") of its concern that similarly situated wireless eligible telecommunications carriers ("ETCs") are not subject to the same requirements as those which have been imposed on TracFone. Specifically, TracFone is concerned that different ETCs may be subject to differing non-usage requirements and procedures.

TracFone, a wireless ETC that provides free airtime minutes to its Lifeline customers each month, complies with a rigorous non-usage procedure in all states in which it offers Lifeline service, including Washington. The purpose for those mandatory non-usage procedures is to minimize payments from the federal Universal Service Fund ("USF") for enrolled Lifeline customers who are no longer using TracFone's SafeLink Wireless® Lifeline service. TracFone urges this Commission to require all current and future wireless ETCs in Washington that provide free airtime minutes to their Lifeline customers, such as Virgin Mobile USA, L.P. ("Virgin Mobile") and others, to implement the same non-usage procedures and requirements as those imposed on TracFone. Consistent non-usage requirements are necessary in order ensure that ETCs only receive reimbursement from the USF for those Lifeline customers who are actually using their Lifeline services. Principles of competitive neutrality and nondiscrimination, as well as a common interest in limiting use of Lifeline support from the USF only for active Lifeline customers, compel that all similarly-situated ETCs be subject to the same requirements.

TracFone's non-usage procedures are applicable to its Lifeline customers who have no usage over a time period in excess of 60 days. Customers who have no usage during a time period in excess of 60 days are de-enrolled from the Lifeline program and have their Lifeline benefits discontinued. Once that occurs, TracFone no longer may claim reimbursement from

the USF for such de-enrolled customers. TracFone only seeks reimbursement from the federal USF for active, enrolled customers who received and **are using** their Lifeline benefits in accordance with the non-usage procedure.

After de-enrollment, TracFone grants one month (without receiving Lifeline program benefits) to de-enrolled customers to use their phone or request re-enrollment in the Lifeline program. Customers who have no usage or do not request re-enrollment within the period specified above will have their phones deactivated and they will be unable to place and receive calls. Customers who request re-enrollment will be re-enrolled and will continue to receive a monthly allotment of benefits under the Lifeline program. Customers who continue to use their service will not have their phones deactivated. Customers are always able to dial 911 from their phones, even after their service has been deactivated based upon non-usage. Customers attempting to place calls after their service has been deactivated (excluding 911 calls) will have their calls routed to an automated system that facilitates service reactivation, if that is the consumer's desire. During the time period outlined above, TracFone proactively seeks to retain customers by sending email notifications, direct mail letters and voice blast messages to notify the customers of their non-usage status and potential service deactivation.

Without a non-usage procedure, an ETC could continue to receive Lifeline support from the USF for a customer so long as that customer is not found to be ineligible for Lifeline, regardless of whether that customer is actively using the ETC's Lifeline service. Under this Commission's rules, an ETC is only required to verify the continued eligibility of a statistically-valid sample of its Lifeline customers on an annual basis. Therefore, a customer has a low probability of being asked to verify eligibility in any given year. Without a non-usage procedure, a customer could potentially go years without using the serving ETC's Lifeline service for a variety of reasons, while the ETC continues to collect Lifeline support from the USF, even if the service is not being used or the Lifeline customer has simply lost his Lifeline phone. For this reason, a uniform and nondiscriminatory non-usage procedure applicable to all similarly-situated ETCs is essential to protect the integrity of the federal USF.

TracFone has learned that certain similarly-situated ETCs have proposed non-usage policies which would enable them to retain inactive Lifeline customers for longer periods and thereby, continue to receive support from the USF for longer durations than that allowed for TracFone.

TracFone's non-usage procedure where a SafeLink customer is de-enrolled from the program after non-usage during a period that exceeds 60 days has been developed in consultation with several state commissions, each of which has insisted on such a procedure to prevent continued receipt of Lifeline support from the USF for non-active Lifeline customers. TracFone follows this non-usage procedure in every jurisdiction where it offers Lifeline service as an ETC. The non-usage procedure has worked well to ensure that only qualified Lifeline customers who actually use the service will continue to receive Lifeline benefits and that TracFone will only receive USF support for those customers who remain enrolled in the program and benefit from it. By eliminating non-users without eliminating eligible enrollees who continue to get support from

Mr. Danner
October 22, 2010
Page 3 of 3

Lifeline, TracFone's non-usage procedure has resulted in significant savings for the federal USF without creating additional barriers to qualification or enrollment. We believe that the TracFone non-usage procedure approved by state commissions and implemented by TracFone reflects a reasonable balance between preserving USF resources on the one hand, and affording Lifeline customers a reasonable period to demonstrate their intent to use their Lifeline service on the other hand. Based on the success of TracFone's non-usage procedure, TracFone encourages this Commission to require that all ETCs that provide free minutes of airtime to comply with such a non-usage procedure.

TracFone is available to discuss any questions or concerns regarding its non-usage procedure and this requested modification to ETC requirements to be applied to wireless ETCs. If you have any questions regarding the information provided in this letter, please contact us.

Sincerely,



Mitchell F. Brecher
Debra McGuire Mercer

Counsel for TracFone Wireless, Inc.

cc: Mr. John M. Beahn
Ms. Elaine Divelbliss