

**Ruth Nettles**

**From:** Guynnm@gtlaw.com  
**Sent:** Wednesday, September 05, 2007 9:59 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Ruth Nettles; Matilda Sanders; Kimberley Pena  
**Subject:** RE: Comments of TracFone Wireless, Inc. on Policy Issues Relating to ETCs (Undocketed)  
**Attachments:** TracFoneComments.pdf

Per your e-mail below, I am resubmitting our filing as one document. As the cover letter was only intended for the Commission's Clerk and was not a part of our actual filing, I am truly sorry that I did not know it could not be submitted as two documents. The fault is entirely mine because I obtained all the filing information over the phone and never thought to ask.

My apologies to everyone.

Michelle D. Guynn  
 Assistant to Mitchell F. "Rick" Brecher

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**From:** Filings@psc.state.fl.us [mailto:Filings@PSC.STATE.FL.US]  
**Sent:** Wednesday, September 05, 2007 9:47 AM  
**To:** Guynn, Michelle D. (Coor-DC-Rcrt)  
**Cc:** Ruth Nettles; Matilda Sanders; Kimberley Pena  
**Subject:** FW: Comments of TracFone Wireless, Inc. on Policy Issues Relating to ETCs (Undocketed)

Mr. Brecher,

Pursuant to e-filing requirements, multiple documents may be attached to the same e-mail transmittal. However, any cover letter or certificate of service must be included in the electronic document to which it relates, and shall not be submitted as a separate attachment to the e-mail. Your filing will need to be revised and resubmitted to meet those requirements. For further information, please see the Commission website at:

9/5/2007

DOCUMENT NUMBER - DATE  
 08034 SEP-5-07  
 FPSC-COMMISSION CLERK

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Feel free to call if you have any questions.

*Dorothy Menasco*

*FPSC*

*Office of Commission Clerk*

*850-413-6330*

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**From:** Guynnm@gtlaw.com [mailto:Guynnm@gtlaw.com] **On Behalf Of** BRECHERM@gtlaw.com

**Sent:** Tuesday, September 04, 2007 4:43 PM

**To:** Filings@psc.state.fl.us

**Subject:** Comments of TracFone Wireless, Inc. on Policy Issues Relating to ETCs (Undocketed)

Mitchell F. "Rick" Brecher

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9/5/2007

# Greenberg Traurig

Mitchell F. Brecher  
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September 4, 2007

## VIA ELECTRONIC FILING

Ms. Ann Cole  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Re: Policy Issues Relating to Eligible Telecommunications Carriers  
(Undocketed)  
Comments of TracFone Wireless, Inc.

Dear Ms. Cole:

Transmitted herewith on behalf of TracFone Wireless, Inc. are its comments in response to the questions raised by Commission Staff which were initially addressed during the August 20, 2007 Workshop on Eligible Telecommunications Carriers. Staff requested written comments by August 31, 2007. On August 31, I spoke with Staff counsel regarding a modest extension of time to submit TracFone's comments. After conferring with other members of Staff, I was told that these comments must be filed not later than September 4. Please direct any questions regarding these comments to undersigned counsel for TracFone.

Sincerely,



Mitchell F. Brecher

Attachment

**Before the  
FLORIDA PUBLIC SERVICE COMMISSION**

Staff Workshop

Policy Issues Relating to  
Eligible Telecommunications Carriers  
(Undocketed)

**COMMENTS OF TRACFONE WIRELESS, INC.**

TracFone Wireless, Inc. ("TracFone"), hereby submits its written comments on the issues which were discussed during the August 20, 2007 Staff Workshop on Eligible Telecommunications Carriers. This undocketed proceeding was commenced in the wake of the Commission's April 3, 2007 order in Docket Nos. 060581-TP and 060582-TP in which it concluded that Section 364.011, Florida Statutes, empowers the Commission to designate Commercial Mobile Radio Service ("CMRS") providers as Eligible Telecommunications Carriers ("ETCs"), notwithstanding the fact that the Commission is otherwise statutorily precluded from asserting jurisdiction over CMRS providers by Section 364.02(12)(c), Florida Statutes. Although the Commission concluded that Section 364.011 construed in light of Section 214(e)(2) of the Communications Act of 1934, as amended,<sup>1</sup> affords it jurisdiction over CMRS providers for the limited purpose of designating CMRS providers as ETCs, the Commission deferred action on the ETC petitions of Alltel Communications, Inc. (Alltel), preferring to consider the important policy issues regarding ETC designation in this workshop.

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<sup>1</sup> 47 U.S.C. § 214(e)(2). That subsection of the federal Communications Act states, in relevant part, that "[a] State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for an area designated by the State commission.

### Statement of Interest

TracFone, a Florida-based company headquartered in Miami, is the nation's leading provider of prepaid wireless services. Currently, it serves more than eight million customers. Prepaid wireless services, like those offered by TracFone, are obtained by consumers on a pay-as-you-go basis. Consumers purchase specified quantities or usage (airtime), either through retail outlets or directly from TracFone via its website ([www.tracfone.com](http://www.tracfone.com)) or by telephone. Customers purchase as much usage as they need, when the need it. There are no customer contracts, no service duration or volume commitments, no credit checks, no early termination fees. Because of the pay-as-you-go nature of prepaid wireless, TracFone's service is especially popular with low volume, often low income customers, transients, students, the elderly, recent immigrants, military personnel, and youth consumers. TracFone provides service through a "virtual network" consisting of services and facilities which it obtains pursuant to contract from multiple wireless network operators. TracFone is sometimes referred to as Mobile Virtual Network Operator or MVNO.

In 2004, TracFone filed with the Federal Communications Commission (FCC) petitions for designation as an ETC in eight states, including Florida. Unlike other ETC applicants, including Alltel, TracFone does not seek ETC designation in order to obtain high cost support from the Universal Service Fund. TracFone's ETC petitions specify that it desires to become an ETC only to be able to offer Lifeline service to qualified low income consumers. Since TracFone does not provide service over its own facilities, it would be statutorily precluded from designation as an ETC pursuant to Section 214(e)(1)(a) of the Communications Act. That section requires that ETCs provide services, at least in part, over their own facilities. However, in September 2005, the FCC recognized that TracFone's proposal to become a Lifeline provider

would have important public interest benefits and granted TracFone's petition for forbearance from the facilities-based carrier requirement set forth at Section 214(e)(1)(A) of the Communications Act, as well as Section 54.201(i) of the FCC's Rules (47 C.F.R. § 54.201(i)).<sup>2</sup>

Notwithstanding the FCC's affirmative determination that provision of Lifeline service on a prepaid wireless basis as proposed by TracFone would serve the public interest, and despite the passage of two years since that FCC determination, TracFone's ETC petitions (including its Florida ETC petition) remain pending before the FCC along with other ETC petitions by competitive (primarily wireless) ETC applicants, even though TracFone's are the only ETC petitions which are expressly limited to Lifeline. For that reason, TracFone is gratified that the Commission has determined that it has jurisdiction to consider designation of CMRS ETCs and is hopeful that the Commission will proceed to consider specific ETC petitions, including TracFone's, in an expeditious manner so as to hasten the availability of low cost Lifeline calling options for Florida's low income households.<sup>3</sup>

While TracFone is desirous of becoming designated as an ETC so that it can offer Lifeline service, TracFone shares the concerns articulated by members of the Commission and by others that continued growth in the size of the Universal Service Fund (USF) has created a significant burden for the telecommunications industry and for consumers of telecommunications services who are the ultimate contributors to the USF. TracFone believes that responsible actions need to be taken at the federal and state levels to control the size of the USF, to ensure that the funds are distributed efficiently, and that the funds are used for their intended purposes.

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<sup>2</sup> Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), 20 FCC Rcd 15095 (2005).

<sup>3</sup> TracFone's ETC application is nearly completed and it expects to file that application with the Commission within the next several days.

It is in that context that TracFone addresses the specific issues and questions set forth in the Commission's August 2, 2007 workshop notice.

**I. Issues**

**1. Specifics of Filing an ETC Petition with the FPSC**

**a. Provision of Supported Services Listed in 47 C.F.R. § 54.101(a)(1).**

All ETCs -- wireline and wireless, incumbent and competitive provider -- must offer each of the services listed in the aforementioned FCC rule. Significantly, one of the listed services is "Local usage." Local usage is defined by the FCC as "an amount of minutes or use or exchange service, prescribed by the Commission, provided free of charge to end users." Existing ETCs do not provide "local usage" as defined by the FCC. Typically, Lifeline customers receive USF-supported "discounts" off their monthly rates. For example, if an ETC's standard rate for local service is \$30.00 per month and the Lifeline customer receives a USF-supported discount of \$13.50, it still will be charged \$16.50 per month. Moreover, the Lifeline customer faces disconnection (elimination of all service) if it fails to pay that amount. Under TracFone's Lifeline plans, customers will indeed receive specified amounts of service "free of charge." Another of the supported services specified in the FCC rule is toll limitation. TracFone's Lifeline service will provide the ultimate in toll limitation. First, consumers will not be able to incur large charges for toll calling since all the service is prepaid. Second, there will be no toll charges with TracFone's Lifeline service as all usage amounts may be used for local or long distance calling with no additional toll charges.

- **Demonstration of Commitment to Provide Service**
- **Demonstration of Ability to Remain Functional in an Emergency Situation**
- **Offering of Comparable Local Usage**
- **Acknowledgement of potentially being required to provide equal access**

Each of these points should be addressed in ETC applications. However, the Commission should recognize that equal access has become an irrelevant concept with respect to CMRS services as CMRS providers, including TracFone, do not impose separate charges for toll calling.

- **Annual Certification**

The Commission should require each ETC offering Lifeline service to demonstrate how it will verify that applicants for Lifeline service are eligible in accordance with the Commission's and the FCC's Lifeline eligibility criteria. The Commission should also require Lifeline providers to implement procedures to ensure that customers continue to receive Lifeline-supported service only so long as they remain eligible for such support.

- **Revocation of eligible telecommunications carrier status**

The Commission, upon receiving complaints that ETCs are not meeting their ETC obligations and complying with applicable rules, should investigate such allegations, and where appropriate, issue orders directing the ETCs to comply. It should also impose sanctions for willful or repeated non-compliance. Revocation of ETC designation should be limited to egregious situations where ETCs continue to fail to comply with applicable requirements after having been notified by the Commission of such non-compliance.

- **Lifeline and Link-Up advertising requirements**

The failure of current ETCs to effectively market Lifeline and Link-Up programs to qualified low income consumers should be a source of state and national embarrassment. Nationally, about thirty-four percent of households eligible for Lifeline participate in the



program. In Florida, the Lifeline participation rate is only 12.4 percent.<sup>4</sup> With Lifeline participation so appallingly low, the Commission should require all ETCs and all ETC applicants to provide marketing and reach out plans to increase enrollment.

## II. Questions

### 1. What is the role and authority of the PSC in the USF process?

TracFone submits that the Commission's role should include the following:

- a) Review and approve ETC applications by wireline and CMRS providers. The Commission should review these applications and approve on an expedited basis those which warrant approval so as to hasten the availability of Lifeline and Link-Up programs to eligible Floridians.
- b) Establish procedural and eligibility rules consistent with the Communications Act and the FCC's rules.
- c) Establish and implement an automatic enrollment program for Lifeline which simplifies and expedites the process for bringing Lifeline benefits to consumers, and that such program be implemented in a competitively neutral manner so as not to favor or disfavor any ETC based on their duration in the market or their technology deployed.
- d) Represent Florida's interests in FCC and Federal-State Joint Board proceedings which impact the size of the USF, distribution of the USF, and the contribution mechanisms.

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<sup>4</sup> Source: Petition to Implement Automatic Enrollment for Lifeline Telephone Service, filed with the Commission by Harold McLean, Public Counsel, and AARP, October 12, 2006, at 2 n. 1.

**2. How many ETCs should be designated in a rural wire center?**

No more ETCs in any rural wire center should be designated than can be economically supported. The USF should not be used to "create" competition in markets where economic competition is not sustainable. Limiting the size of the USF and controlling its growth are higher priorities than using the USF to support multiple high cost participants. The Commission should recognize that the considerations which favor limited ETC designation in rural areas are different with respect to high cost support than for Lifeline. Under current distribution rules, where there are multiple ETCs serving the same area (including rural areas), the competitive ETCs and the incumbent wireline ETC all receive USF support based on the incumbent's costs. In contrast, with Lifeline, only the ETC which serves the Lifeline customer receives support. Thus, having multiple ETCs offering Lifeline in a rural area (or any area) will not increase the amount of USF support except to the extent that the ETCs serve additional Lifeline customers. Expanding support to low income consumers is a primary purpose for the USF.

**3. How many ETCs should be designated in a non-rural wire center?**

Since TracFone does not seek ETC designation for any purpose other than to offer Lifeline service, it has no position with respect to multiple ETC designations beyond that stated in its response to the preceding question.

**4. If a limit is set on the number of ETCs designated in a wire center, how should it be decided which ETC(s) serve it (e.g., one wireline & one wireless)?**

High cost support should be distributed to the most efficient provider, irrespective of technology, irrespective of which ETC has been serving the area the longest.

**5. How should "public interest" be determined for ETC designation in a rural area?**

The most important public interest criterion is who can provide affordable telecommunications service to rural areas most efficiently, *i.e.*, with the least burden placed on

the nation's telecommunications service providers and consumers. USF is not about "competition for competition's sake."

6. **Can a state apply a "Public Interest" standard found in § 214(e)(2) of the Telecommunications Act of 1996, to carriers seeking ETC status in non-rural study areas? If so, how should "Public Interest" be determined for ETC designation in a non-rural area?**

The public interest standard codified at Section 214(e)(2) is applicable to state consideration of ETC applications for rural and non-rural areas. The section is somewhat confusing. The last sentence states as follows: "Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest." By itself, this sentence would imply that the public interest standard is only applicable to ETC designations for areas served by rural telephone companies. However, the Commission's attention is directed to the second sentence of Section 214(e)(2). That sentence states: "Upon request **and consistent with the public interest, convenience and necessity**, the 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 . . . ." (emphasis added). Thus, Section 214(e)(2) requires state commissions to make public interest determinations with respect to ETC designations for rural and non-rural areas. By designating this function to the states, Congress afforded the states reasonable discretion in deciding how to apply the public interest standard.

7. **What additional criteria should be required to obtain ETC status for high-cost funds? (e.g., USF funds must be invested in Florida. USF funds must be used in unserved areas?)**

It is reasonable and appropriate for the Commission to require that USF funds received by Florida ETCs, including CMRS ETCs, be used in a manner which benefits Floridians.

However, this is largely an issue of enforcement. By law, CMRS providers are not subject to state rate regulation (see 47 U.S.C. § 332(c)(3)). Thus, it would be difficult for the Commission to ensure that ETCs receiving USF funding, especially high cost support, actually used that funding to reduce rates to Florida customers. Such enforcement may be problematic with respect to high cost support. However, it would not be difficult with respect to Lifeline. The Commission could review each ETC's specific Lifeline program and determine whether the amount of "free" service or service benefit equaled the amount of per customer USF support to be received by the ETC.

8. **Pursuant to § 214(e)(1), should an entity be required to establish its ability to serve all customers of the current ETC, if the incumbent ETC relinquishes its designation?**

This may be an impossible requirement to enforce. Wireless networks have "dead spots" (specific locations where it is impossible to receive a consistent signal). The Commission should continue to enforce its Carrier of Last Resort requirements as necessary to ensure that all customers have access to basic service.

9. **In Order No. PSC-07-0288-PAA-TP, the FPSC concluded that "... we now have jurisdiction to consider CMRS applications for ETC designation." Given that the FCC's jurisdiction to designate a carrier as an ETC, in § 214(e)(6) of the Telecommunications Act of 1996, is premised on a state commission not having jurisdiction, can the FCC designate any additional carriers within Florida?**

Assuming that the Commission's order asserting jurisdiction over CMRS ETCs is final and no longer subject to judicial review, then the Commission, not the FCC, is the agency with statutory authority to designate ETCs (including CMRS ETCs) in Florida. However, states must exercise their authority to designate ETCs in a manner consistent with the requirements of the federal Communications Act. In order to avoid confusion as to which agency has authority to

designate CMRS ETCs, TracFone recommends that the Commission notify the FCC of its jurisdictional determination in Order No. PSC-07-0288--PAA-TP.

**10. Can the FCC continue to perform annual certification of carriers that it has designated if it no longer has jurisdiction under § 214(e)(6) of the Telecommunications Act of 1996?**

Note that the caption of § 214(e)(6) is "Common Carriers Not Subject to State Commission Jurisdiction." In Florida, CMRS providers are not subject to state commission jurisdiction except pursuant to § 364.011, Florida Statutes, to the extent "specifically authorized by federal law." Thus, since the PSC's jurisdiction over CMRS providers is limited to the extent authorized by federal law, the FCC's certification requirements remain applicable. What has to be certified to is that all required services within the definition of universal service (enumerated at 47 C.F.R. § 54.101 of the FCC's rules) are being provided by the ETC and that they are being advertised by the ETC.

**11. Should an ETC be required to offer all supported services pursuant to 47 C.F.R. § 54.101(a), not just, e.g., Lifeline and Link-Up?**

This question seems to misconstrue what Lifeline service is about. Lifeline and Link-Up are not alternatives to "all supported services." Link-Up is a federal program to offset connection charges. A Lifeline offering of an ETC must include "all supported services." However, the "all supported services" requirement must be applied and enforced in a manner which makes sense, given the overall service offering. For example, it is inherently illogical to require "equal access" to toll providers with respect to CMRS services where the CMRS services include long distance calling without additional charges. Why would any consumer want to incur another provider's toll charges since its wireless minutes of use allow toll calling without additional charges? Similarly, toll limitation features seem irrelevant with respect to a prepaid wireless offering since there is no way for any customer to incur more charges than the customer

already has paid for. The list of "all supported services" is about 10 years old, and technology and markets have changed during that period. The PSC should recognize those changes and apply the "all supported services" requirement in an appropriate manner.

**12. If an ETC uses its ETC designation only for the purposes of providing Lifeline service, should a waiver be sought of other requirements to offer services? What is the extent of the FPSC's authority to grant such waivers?**

Authorizations, including ETC designations, can be conditionally granted. That is, they can be granted by state commissions and by the FCC subject to limitations or conditions specifically imposed upon them. While the concept of being an ETC generally has been understood to encompass an entitlement to receipt of multiple forms of USF support, TracFone has told the FCC that it would accept ETC designation conditioned upon it being limited to receipt of Lifeline funds. There is no reason why the Commission cannot similarly impose such a condition on ETC designations. That would accomplish several important objectives. It would hasten the availability of Lifeline options to low income Florida households (for example, some low income consumers not currently enrolled in Lifeline may elect to participate in Lifeline if it enables them to obtain wireless service. For some such low income consumers, receiving a stated amount of free wireless service may be very attractive and may motivate them to enroll in a Lifeline program). It would also enable the PSC to take steps to increase and improve Lifeline offerings without those actions increasing the amount of high cost support, thereby growing the USF and increasing the burden on Florida telecommunications consumers.

**13. What can Florida do to relinquish its role as being the number one net contributor to the USF fund?**

It is important to recognize which factors which can be changed as well as which factors cannot be changed. Florida is a populous state with many consumers of telecommunications services generating fees which are subject to USF assessment. It is also a relatively "low cost"

state. Thus, there is little Florida can do to change the fact that its service providers and its residents will pay a lot to support the USF. However, it can take certain steps to alleviate the payment imbalance. First, it can increase Lifeline penetration. With only about 12.5% of eligible Florida households participating in Lifeline, Florida is receiving far less support than the amounts to which its residents are entitled. Raising the Lifeline rate from 12.5% to 34% (the national average) would increase Florida's USF in-payments by millions of dollars per annum. Also, Florida can advocate responsible steps to limit the growth of the USF, and limit distribution of USF funds, especially high cost support, so that those funds go to those who can provide affordable service in high cost areas (most of which are not located in Florida) with the least amount of USF support. If Florida is seriously concerned about limiting the size of its USF contributions, it should limit its approval of multiple recipients of high cost support serving the same areas and should support federal efforts to control fund size.

**14. In considering the "Public Interest" standard for ETC designation, to what degree should the following aspects be considered:**

**a. The benefits of increased customer choice.**

Competition for competition's sake is not in the public interest, especially when such "competition" is facilitated by USF support. However, one benefit of competition is that the presence of multiple suppliers creates downward pressure on pricing. By awarding USF high cost support to the most efficient provider, rather than to multiple inefficient providers, the USF actually can stimulate cost reductions which would benefit consumers and which would serve the public interest.

**b. The impact of the designation on the Universal Service Fund.**

Designating multiple ETC recipients of high cost support in the same geographic areas will increase the size of the USF. Florida may want to do that if it believes that consumers

in high cost areas should have choices of providers, but designation of multiple ETC recipients of high cost support WILL increase the size of the USF.

**c. The unique advantages and disadvantages of the competitor's service offering.**

With respect to Lifeline, the specifics of each competitor's service offering should not be considered so long as each ETC meets the qualifying criteria (provides "all supported services" as required by § 54.101(a), etc.). The marketplace will sort this out. Since only the ETC serving the Lifeline customer may receive USF support for that customer, there is no risk that having multiple ETC Lifeline providers will place upward pressure on the USF -- unless the providers attract new (*i.e.*, additional) Lifeline customers. Providing Lifeline service to as many qualified low income consumers as possible is a primary purpose for the USF. Thus, an increase in the size of the USF occasioned by additional low income households benefiting from a program created for them is hardly a public interest problem. If the Commission designates an ETC to offer Lifeline and the ETC fails to persuade customers to sign up for its Lifeline service, the provider will not receive Lifeline support. Thus, there is no reason for the Commission to concern itself with the pros and cons of each Lifeline provider's offerings -- consumers will make those determinations.

**15. How should the comparable local usage requirement of ETC designation be considered?**

Services should be comparable. However, "comparable" does not mean "identical." Different technologies result in different service characteristics and accommodate different service features. The list of "all supported services" (provided in a common sense manner -- see response to question no. 11 above) provides a baseline. Beyond that, reasonable differences in the services of ETCs should be tolerated. For example, during the June 19, 2007 agenda conference on the Alltel ETC application, a representative of TDS criticized Alltel's proposed



Lifeline plan as offering less local usage than TDS's wireline Lifeline plan.<sup>5</sup> Comparing Alltel's proposed Lifeline plan to TDS's Lifeline plan based on volumes of included usage misses the point. While the wireline plan may allow for more local usage at a fixed, subsidized price than does the wireless plan, the wireline plan does not include toll calling. Neither does the wireline plan allow for text messaging, or for the ability to use the service while away from home. The point here is not to determine which plan is "better" or provides consumers with greater value. Consumers, not the Commission, will make those determinations.

**16. Should the amount of per-line support received by the incumbent LEC be a consideration in ETC designation?**

Under a reverse auction system, the ETC which needs the least amount of USF support per line to provide an acceptable level of service would receive the support (or would receive most of the support depending on the specific reverse auction proposals under consideration). Given Florida's stated concern about net USF outpayments, it should favor reverse auctions or any other responsible means for improving the efficiency of high cost fund distribution. However, those are questions before the Federal-State Joint Board on Universal Service and the FCC; they are not before the PSC. The Commission should protect Florida interests by zealously advocating such reforms in the appropriate forums.

**17. Should a requirement of one line per household for USF be imposed? Does the FPSC have the authority to take such action?**

The purpose for the USF is to make network access affordable to all households. It is not to equalize the cost of unlimited services throughout the country. It is questionable whether a one-supported line per household requirement in Florida would do much to reduce Florida's USF imbalance, since it would limit the amount of USF support, specifically high cost support, coming into Florida, but would not limit the amount of high cost support leaving Florida and

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<sup>5</sup> June 19, 2007 Agenda Conference, TR. at 15-16.

going to other states which do not have a one line per household requirement. Several years ago, the Federal-State Joint Board on Universal Service recommended that the FCC adopt a one supported line per household requirement as a way to control the growth of the USF. Before the FCC could even consider the recommendation, Congress enacted legislation prohibiting the FCC from utilizing any resources even to consider the proposal.

As for Lifeline, there is a federal one-supported line per household requirement, but it appears that states which have their own Lifeline programs may adopt their own criteria and limitations. See § 54.409 of the FCC's rules which states, in part, as follows: *"To qualify to receive Lifeline service in a state that mandates state Lifeline support, a consumer must meet the eligibility criteria established by the state commission for such support. The state commission shall establish narrowly targeted qualification criteria that are based solely on income or factors directly related to income."* Thus, the FCC's rules appear to give the states some flexibility in establishing eligibility criteria for their own Lifeline programs.

- 18. Should ETCs be required to list the projects and locations of all projects for which USF funds will be used in their five-year plans? Should ETCs be required to provide an explanation if a project isn't completed by the time of the next annual recertification?**

These are USF management and enforcement questions for which TracFone has no position at this time.

- 19. How should the benefit be measured of adding plant in a wire center using USF funds? (e.g., more customers? more handsets? better coverage?)**

TracFone has no position on this question beyond that which it has expressed in responses to prior questions.

**20. What criteria should be used to determine if an ETC is meeting the Lifeline and Link-Up advertising requirements?**

The best way to measure how an ETC's advertising of Lifeline and Link-Up is working is to evaluate the results. Whether or not an ETC has attracted Lifeline and Link-Up customers is more important than whether it has met or exceed its advertising commitments. With Florida's Lifeline participation rate hovering around 12.5%, it is clear that the current ETCs' have failed to effectively market and advertise their Lifeline offerings, irrespective of how little or how much they may have spent on such advertising. If the Commission is concerned about ETCs not fulfilling their advertising commitments, it could impose periodic reporting conditions. Failure of an ETC to meet its advertising commitment would only be important if the ETC also failed to significantly increase its Lifeline penetration.

**21. What criteria should be met if an ETC decides it wishes to relinquish its ETC designation?**

An ETC should be allowed to relinquish its designation as an ETC upon reasonable notice to the Commission. However, relinquishment of a carrier's ETC designation is a separate matter from relinquishment of its Carrier of Last Resort (COLR) designation. By relinquishing its designation as an ETC, a carrier would lose its right to receive USF funding -- either in the form of high cost support or in the form of Lifeline support. So long as that carrier retained its COLR status, it would continue to have the obligations imposed upon carriers of last resort. as a result of ETCs relinquishing their designation and abandoning service to specified areas.

**22. What are the differences in the requirements to be an ETC versus the requirements of a carrier of last resort?**

The concept of ETCs is a creation of federal law. The concept of COLR is a creation of state law. Designation as an ETC entitles a carrier to receipt of USF funds. Designation as a COLR obligates carriers to serve all consumers within a geographic area. Most COLRs,

probably all COLRs, are also designated ETCs. However, the state-imposed COLR obligations are separate from those of an ETC.

- 23. Do the responsibilities associated with ETC designation differ from those afforded a COLR under state law? If so, what are the differences and similarities?**

See answer to question no. 22 above.

- 24. Should a company which is a reseller and who also leases network elements be required to have a certain percentage of customers served by the leasing of network elements to meet the "own facilities" requirement?**

In the CMRS world, leasing network elements is not a relevant concept since there is no statutory requirement applicable to CMRS providers such as that codified at 47 U.S.C. § 251(c)(3) with regard to incumbent local exchange carriers to make available unbundled network elements at government-mandated rates. With specific respect to TracFone's proposal to be an ETC for Lifeline purposes only, the FCC has determined that the public interest would be served by forbearing from applying or enforcing the facilities-based requirement for ETC designation set forth at § 214(e)(3) of the Communications Act. The Commission can and should rely upon this statement of federal law in considering TracFone's application using its authority under § 361.011, Florida Statutes.

- 25. What percentage of wireless CETC support should go to new towers in unserved areas?**

TracFone has no position on this question.

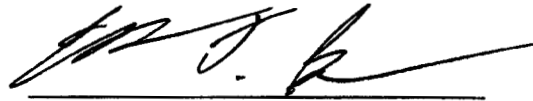
- 26. What other issues need to be addressed when considering ETC policy?**

The questions raised by Staff appear to cover the major public interest factors relevant to the ETC designation process with respect to CMRS ETCs. As the designation process moves forward, no doubt additional questions will need to be addressed. However, the Commission should recognize the time sensitive nature of this process. Prompt designation of additional ETC

Lifeline providers offers the potential to substantially raise the level of Lifeline participation by low income Floridians and to increase the level of USF benefits enjoyed by Floridians rather than increasing the burden of USF borne by Floridians. Whatever difficult issues are raised by the prospect of additional recipients of high cost support, the Commission should recognize that those issues are not germane to designating additional Lifeline providers. Accordingly, TracFone respectfully asks the Commission to promptly act on CMRS applications for ETC designation to offer Lifeline service, and that it not withhold action on such requests as it works through the far more complex issues of whether and how to designate additional ETCs to receive high cost support.

Respectfully submitted,

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September 4, 2007