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070586-TP

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Supplement to Application of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Florida for the Limited Purpose of Offering Lifeline Service to Qualified Households.

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FPSC-COMMISSION CLERK

**Before the  
FLORIDA PUBLIC SERVICE COMMISSION**

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In the Matter of )  
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Application of TracFone Wireless, Inc. )  
for Designation as an Eligible Telecommunications )  
Carrier in the State of Florida for the Limited )  
Purpose of Offering Lifeline Service to Qualified )  
Households )  
\_\_\_\_\_ )

Docket No. 070586-TP

**SUPPLEMENT TO APPLICATION OF TRACFONE WIRELESS, INC.  
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER  
IN THE STATE OF FLORIDA FOR THE LIMITED PURPOSE OF  
OFFERING LIFELINE SERVICE TO QUALIFIED HOUSEHOLDS**

TracFone Wireless, Inc. (“TracFone”), by its undersigned counsel, hereby supplements its Application for Designation as an Eligible Telecommunications Carrier in the State of Florida (“Application”), filed on September 6, 2007. In the Application, TracFone seeks eligible telecommunications carrier (“ETC”) designation solely to provide Lifeline service to qualifying Florida consumers. This supplement provides additional authority to support the Commission’s grant of the Application.

In the Application, TracFone stated that on September 8, 2005, the Federal Communications Commission (“FCC”) granted a petition for forbearance filed by TracFone that requested the FCC to forbear from enforcing the facilities-based requirement for ETCs codified at Section 214(e)(1)(A) of the Communications Act (47 U.S.C. § 214(e)(1)(A)) and Section 54.201(i) of the FCC’s Rules (47 C.F.R. § 54.201(i)). TracFone further noted that the Commission has authority under Section 364.011 of the Florida Statutes to act under Section 214(e)(2) of the Communications Act and to grant TracFone’s request for designation as an ETC

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throughout the State of Florida. TracFone explained that Section 364.011 of the Florida Statutes grants the Commission authority to the extent “specifically authorized by federal law” and that the FCC’s grant of forbearance, being a final FCC order, is itself part of “federal law”.

By this supplement, TracFone advises the Commission that Section 10(e) of the Communications Act (47 U.S.C. § 160(e)) provides: “[a] State commission may not continue to apply or enforce any provision of this chapter that the [Federal Communications] Commission has determined to forbear from applying under subsection (a) of this section.” As noted above, the FCC has determined that it will forbear from applying the facilities-based requirement for ETCs to TracFone. As such, the Commission is required by Section 10(e) to act in accordance with the FCC’s forbearance order, and therefore, may not apply the facilities-based requirement to TracFone.

#### **CONCLUSION**

For the reasons set forth in the Application filed September 6, 2007, as supplemented herein, TracFone contends that the requirements for eligibility for designation as an ETC have been met. Accordingly, TracFone requests that the Commission promptly grant its Application.

Respectfully submitted,

s/Mitchell F. Brecher  
s/Debra McGuire Mercer

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October 30, 2007