

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Petition of TracFone Wireless, Inc.)	DOCKET NO. 09-2511-01
for Designation as an Eligible)	DPU Exhibit 1.0
Telecommunications Carrier in the)	
State of Utah for the Limited)	Direct Testimony of
Purpose of Offering Lifeline Service)	Casey J. Coleman
to Qualified Households)	

DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE

April 5, 2010

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1 **I. IDENTIFICATION OF WITNESS**

2 **Q. PLEASE STATE YOUR NAME, EMPLOYER, AND BUSINESS**
3 **ADDRESS.**

4 A. My name is Casey J. Coleman. I am employed by the Division of Public
5 Utilities (“Division”) for the State of Utah. My business address is 160 East
6 300 South Salt Lake City, UT 84114.

7 **Q. BRIEFLY OUTLINE YOUR EMPLOYMENT BACKGROUND.**

8 A. Before working for the Division, I was employed by a telecommunications
9 consulting firm as a Financial Analyst. Then for approximately three years I
10 worked for the Division as a Utility Analyst and now work as a Technical
11 Consultant for the Division.

12 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?**

13 A. I received a Bachelor of Science degree from Weber State University in 1996
14 and a Masters of Business Administration from Utah State University in 2001.

15 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE UTAH PUBLIC**
16 **SERVICE COMMISSION?**

17 A. Yes. I testified before the Commission as an expert witness in Docket Nos. 01-
18 2383-01, 02-2266-02, 02-049-82, 03-049-49, 03-049-50, 05-053-01, 05-2302-01
19 and 07-2476-01, 08-2469-01.

20

II. SUMMARY

21 **Q. PLEASE SUMMARIZE AND DESCRIBE THE PURPOSE OF YOUR**
22 **TESTIMONY.**

23 A. TracFone Wireless Inc. (“TracFone”) filed a Petition August 25, 2009
24 requesting the Utah Public Service Commission (“Commission”) designate
25 TracFone as an Eligible Telecommunications Carrier (“ETC”) within the
26 state of Utah. TracFone’s petition sought to limit the ETC designation to
27 households that qualify for the Lifeline Service.

28 My testimony will focus on the application filed by TracFone and whether its
29 petition to become an ETC meets the requirements outlined by the Federal
30 Communications Commission (“FCC”) as well as any State ETC
31 requirements. My analysis will look at the federal framework to determine
32 whether granting an ETC designation to TracFone is in the public interest.
33 Specifically my testimony examines (1) the benefits of increased consumer
34 choice, (2) the impact of the designation on the federal universal fund
35 (“FUSF”), and (3) the unique advantages and disadvantages of TracFone’s
36 service offerings.

37 Finally, my testimony covers conditions the Commission should adopt if
38 designating TracFone as an ETC in the state of Utah. The Division
39 recommends that the Commission grant the ETC request of TracFone with a
40 few conditions. Our analysis shows TracFone has met the federal
41 requirements that would allow them to qualify for the Lifeline subsidy. The
42 Division believes the following conditions should apply to TracFone: (1) That
43 TracFone should pay all applicable surcharges and funds that are required of
44 any wireless carrier, and (2) TracFone should follow similar verification

45 methods established by the State to ensure individuals qualify for the
46 Lifeline subsidy.

47 **III. FEDERAL FRAMEWORK FOR GRANTING AN ETC**

48 **Q. WHAT IS THE FRAMEWORK FOR A COMPANY TO GAIN**
49 **AUTHORIZATION TO SERVE AS AN ETC?**

50 A. The FCC has delegated jurisdiction to the state commissions, allowing them
51 the authority to determine whether a company is eligible to be classified as
52 an ETC. Section 214(e)(2) of the Communications Act provides that a State
53 commission shall designate a common carrier as an ETC if the carrier meets
54 the requirements of Section 214(e)(1). Section 214(e)(1) requires a carrier
55 designated as an ETC to offer the services that are supported by Federal
56 universal service support mechanisms using its own facilities or a
57 combination of its own facilities and resale of another carrier's services and to
58 advertise the availability of such services and the related charges using
59 media of general distribution.

60 Section 214(e)(2) of the Communications Act allows a state commission to
61 designate a common carrier as an ETC as long as it is consistent with the
62 public interest, convenience, and necessity for a non-rural area. Before
63 designating an additional eligible telecommunications carrier for an area
64 served by a rural telephone company, the State commission shall find that
65 the designation is in the public interest.

66 **Q. IS TRACFONE MEETING THE REQUIREMENT OF OFFERING**
67 **SERVICES THAT ARE OUTLINED IN SECTION 214(e)1(A)?**

68 A. Partially. In TracFone's application it indicates that it will offer all
69 required services and functionalities, which include:

- 70 • Voice grade access to the public switched network.
- 71 • Local usage.
- 72 • Dual tone multi-frequency ("DTMF") signaling or its functional
73 equivalent.
- 74 • Single-party service or its functional equivalent.
- 75 • Access to 911 and E911 emergency service.
- 76 • Access to operator services.
- 77 • Access to interexchange service.
- 78 • Access to directory assistance.
- 79 • Toll limitation for qualified low-income customers.

80 TracFone also recognizes that the FCC's rules require an applicant for ETC
81 status to demonstrate that it satisfies network build-out and improvement
82 requirements and to provide a certification that it acknowledges that the
83 FCC may require TracFone to provide equal access to long distance carriers
84 in the event that no other ETC is providing equal access within the service
85 area.

86 The FCC, in the TracFone Forbearance Order, included as Attachment 1 to
87 Mr. Fuentes' testimony, determined that TracFone was not required to
88 make these showings because it is a pure reseller. TracFone maintains that
89 it is also not required to make these showings for this ETC petition. The
90 Division agrees that because TracFone is purely a reseller, the network
91 build-out requirements and equal access acknowledgement is not necessary.

92 Where TracFone is not following Section 214(e)1(A) is in the requirement
93 that the common carrier use some combination of its own facilities and
94 resale of another carrier's services.

95 **Q. BECAUSE TRACFONE IS NOT USING ITS OWN FACILITIES BUT**
96 **SERVING CUSTOMERS VIA RESALE, SHOULD THE COMMISSION**
97 **REJECT THE REQUEST?**

98 A. No. TracFone petitioned the FCC to forbear the facility based requirement
99 for a common carrier when considering an ETC designation. In the
100 TracFone Forbearance Order, the FCC decided to forbear from applying the
101 facilities-based requirement for ETCs to TracFone. Section 10(e) of the
102 Communications Act (47 U.S.C. § 160(e)) provides: “[a] State commission
103 may not continue to apply or enforce any provision of this chapter that the
104 [Federal Communications] Commission has determined to forbear from
105 applying under subsection (a) of this section.” As such, the Utah Public
106 Service Commission is required by Section 10(e) to act in accordance with
107 the FCC’s TracFone Forbearance Order, and therefore, may not apply the
108 facilities-based requirement to TracFone.

109 **Q. IS TRACFONE MEETING THE REQUIREMENT OF OFFERING**
110 **SERVICES THAT ARE OUTLINED IN SECTION 214(e)1(B)?**

111 A. Yes. On page 8, lines 9 – 23, of Mr. Fuentes’ testimony, he outlines the
112 methods TracFone uses to advertise their service to qualifying customers.
113 Mr. Fuentes indicates: “TracFone will utilize traditional means for
114 promoting the availability of its Lifeline program. These means will include
115 print and broadcast advertising in media outlets most likely to reach
116 consumers eligible for Lifeline. These would include national publications
117 as well as local and community newspapers, and commercial broadcast
118 stations, especially those stations whose programming is targeted to
119 significant lower income communities including, for example, Spanish
120 language stations.”

121 The Division reviewed the sample marketing materials that have been used
122 in other markets. This review satisfied the Division that TracFone will
123 “advertise the availability of their services and the charges” using media of
124 general distribution.

125 **Q. WITH THE FORBEARANCE FROM THE FCC AND INFORMATION**
126 **PROVIDED BY TRACFONE, DOES THE DIVISION FEEL TRACFONE**
127 **HAS FULFILLED THE REQUIREMENTS OF SECTION 214(e)1?**

128 A. Yes. With the FCC forbearance of facilities and information provided by
129 TracFone, the Division believes TracFone has fulfilled both requirements.

130 **Q. THE TRACFONE FORBEARANCE ORDER HAD SOME CONDITIONS**
131 **PLACED ON TRACFONE TO HAVE THE FACILITY PROVISION**
132 **WAIVED. DOES THE DIVISION FEEL THOSE CONDITIONS SHOULD**
133 **APPLY IN THIS ETC DESIGNATION?**

134 A. Yes. When the FCC granted the forbearance to TracFone these conditions
135 were required of TracFone.

136 a. TracFone providing Lifeline customers with basic 911 and enhanced
137 911 (“E911”) access regardless of activation status and availability of
138 prepaid minutes;

139 b. TracFone providing its new Lifeline customers with E911-compliant
140 handsets and replacing any existing customers’ non-compliant
141 handsets at no additional charge;

- 142 c. TracFone complying with conditions (a) and (b) as of the date it
143 provides Lifeline service;
- 144 d. TracFone obtaining a certification from each Public Service Answering
145 Point (“PSAP”) where TracFone provides Lifeline service confirming
146 that TracFone complies with condition (a);
- 147 e. TracFone requiring its customers to self-certify at the time of service
148 activation and annually thereafter that they are the heads of the
149 households and receive Lifeline-supported service only from TracFone;
150 and
- 151 f. TracFone establishing safeguards to prevent its customers from
152 receiving multiple TracFone Lifeline subsidies at the same address.

153 **Q. THE FCC APPEARS TO EXPRESS SOME CONCERN THAT THERE**
154 **IS THE POTENTIAL OF FRAUD AND MULTIPLE SUBSIDIES**
155 **GOING TO ONE FAMILY. DOES THE DIVISION HAVE THE SAME**
156 **CONCERN?**

157 A. Yes, absolutely. One of the primary concerns of the Division with the
158 petition by TracFone to be classified as an ETC is the potential for fraud.
159 Because of the transient nature of TracFone’s service and the fact that
160 there is no economic cost to users of the service, qualified lifeline customers
161 may find ways to exploit the system and obtain multiple Lifeline supported
162 phones at the same address. The Commission should require TracFone to
163 utilize the Department of Community and Culture’s (DCC) knowledge and
164 data bases to ensure as accurately as possible that only one individual per
165 household is receiving the Lifeline subsidy. Our State has developed
166 processes to help telecommunications companies verify the eligibility of

167 potential Lifeline customers. To be fair to all telecommunications
168 companies, the Commission should impose the same requirements on
169 TracFone that exist for other carriers. With this added condition, the
170 Division believes the potential for fraud and abuse will be significantly
171 reduced.

172 **IV. THE PUBLIC INTEREST STANDARD**

173 **Q. DOES THE FCC GIVE ANY GUIDELINES IN DETERMINING A**
174 **PUBLIC INTEREST STANDARD?**

175 A. Yes. The FCC's Report and Order In the Matter of Federal-State Joint Board
176 on Universal Service adopted February 25, 2005 stated:

177 We set forth our public interest analysis for ETC designations, which
178 includes an examination of (1) the benefits of increased consumer choice,
179 (2) the impact of the designation on the universal service fund [FUSF], and
180 (3) the unique advantages and disadvantages of the competitor's service
181 offering.

182 Additionally, under section 214 of the Act, the FCC and State Commissions
183 must determine that an ETC designation is consistent with the public interest,
184 convenience, and necessity. The public interest benefits of a particular ETC
185 designation must be analyzed in a manner that is consistent with the purposes
186 of the Act itself, including the fundamental goals of preserving and advancing
187 universal service, ensuring the availability of quality telecommunications
188 services at just, reasonable, and affordable rates, and promoting the
189 deployment of advanced telecommunications and information services to all
190 regions of the nation, including rural areas.

191 Finally, the FCC suggests in its Report and Order In the Matter of Federal-

192 State Joint Board on Universal Service adopted, February 25, 2005, that when
193 an applicant seeks designation below the study area level of a rural telephone
194 company, State Commissions conduct a “creamskimming” analysis.
195 Creamskimming occurs when a company requests an ETC designation for less
196 than an entire exchange area. The FCC explains that creamskimming could
197 occur because a company would serve only in the high-density areas while
198 excluding the rural or high-cost areas allowing a company to skim the most
199 profitable customers while avoiding the customers in with a lower profit
200 margin.

201 **Q. DO YOU BELIEVE A CREAMSKIMMING ANALYSIS IS NECESSARY**
202 **IN THIS DOCKET?**

203 A. No. Because TracFone is only requesting to serve qualified Lifeline customers,
204 the concern of creamskimming in a rural exchange is eliminated. TracFone
205 will serve only those low-income individuals who qualify for their SafeLink
206 service. TracFone’s business plan is to serve only a small sub-section of the
207 entire telecommunications market. The customers they are serving generally
208 would be residential customers with limited incomes. The concern of
209 creamskimming, as stated by the FCC, dealt with a company only serving the
210 users of telecommunications services who would use the high profit services,
211 i.e. DSL, internet, large toll customers. TracFone is only offering essentially a
212 voice service without the potential to offer the more data rich or specific
213 services. Because of only offering voice the impact of creamskimming is
214 essentially eliminated.

215 **Q. CAN YOU SUMMARIZE THE DIVISION'S UNDERSTANDING OF THE**
216 **ANALYSIS THAT MUST BE COMPLETED FOR A FEDERAL ETC**
217 **DESIGNATION?**

218 A. Yes. The Commission should evaluate whether the services being offered by
219 TracFone advance and preserve the goals of universal service. Additionally,
220 the Commission must find that granting the ETC request is in the public
221 interest.

222 **Q. DO STATE RULES AND STATUTES CONTEMPLATE THE**
223 **POSSIBILITY OF A CARRIER BEING CLASSIFIED AS AN ETC TO BE**
224 **ELIGIBLE TO RECEIVE UTAH UNIVERSAL PUBLIC**
225 **TELECOMMUNICATIONS SERVICE SUPPORT?**

226 A. Yes. R746-360-6(A)1 states: To qualify to receive USF support funds, a
227 telecommunications corporation shall be designated an "eligible
228 telecommunications carrier," pursuant to 47 U.S.C. Section 214(e) and shall be
229 in compliance with Commission orders and rules.

230 **Q. HAS THE COMMISSION EVER DETERMINED A PUBLIC INTEREST**
231 **STANDARD FOR AN ETC IN A DIFFERENT PROCEEDING?**

232 A. Yes. Docket No. 98-2216-01, In the Matter of the Petition of WWC Holdings
233 Co., Inc. For Designation as an Eligible Telecommunications Carrier, the
234 Commission provided direction regarding what they determined to be a
235 standard for meeting the public interest threshold.

236 **Q. HAS THE UTAH SUPREME COURT ALSO RULED IN THE WWC**

237 **PROCEEDING SUPPORTING A PUBLIC INTEREST STANDARD FOR**
238 **GRANTING AN ETC?**

239 A. Yes.

240 **Q. DESCRIBE YOUR UNDERSTANDING OF THE PUBLIC INTEREST**
241 **STANDARD AS DEVELOPED BY THE COMMISSION AND AFFIRMED**
242 **BY THE UTAH SUPREME COURT IN THE WESTERN WIRELESS**
243 **CASE?**

244 A. Although I am not an attorney, in my opinion the decision by the
245 Commission (affirmed by the Utah Supreme Court) seems to establish a test
246 where “increasing the burdens on the state fund was not in the public
247 interest in the absence of corresponding public benefits”. The order by the
248 Commission allowed it to look at the effect of allowing an additional ETC to
249 compete in the State of Utah and the effects competition would have on the
250 USF.

251 **Q. BESIDES THE WESTERN WIRELESS CASE, HAS THE**
252 **COMMISSION EVER HAD TO EVALUATE A PUBLIC INTEREST**
253 **STANDARD?**

254 A. Yes. Bresnan Broadband of Utah, LLC (Bresnan) applied for a CPCN in the
255 Vernal Exchange and was granted the CPCN in Docket No. 07-2476-01.
256 Although the Vernal Exchange was above the 5,000 line threshold, the ILEC
257 in that Docket did not have 30,000 access lines. In that Docket the public
258 interest standard for rural ILECs was an important consideration. In the
259 Bresnan order, the Commission established, at minimum, two criteria that

260 could be used to evaluate the value of granting a CPCN in rural Utah. Those
261 criteria are a) Competitive choice and b) Effect on the USF.

262 The Commission recently held a hearing in docket 08-2469-01 where All
263 American Telephone Company was requesting to expand their CPCN to
264 include a rural exchange in Utah. A major element in that Docket was
265 whether granting the expansion of the CPCN was in the public interest.

266 **Q. CAN YOU BRIEFLY SUMMARIZE YOUR UNDERSTANDING OF THE**
267 **PUBLIC INTEREST STANDARD THAT HAS BEEN APPLIED BY THIS**
268 **COMMISSION IN ETC OR CPCN APPLICATIONS?**

269 A. Yes. The public interest standard followed by the Division and accepted by the
270 Commission has been to establish certain criteria to be used in a cost-benefit
271 analysis. Specifically, the Commission established, at minimum, two criteria
272 that could be used to evaluate the value of granting a CPCN in rural Utah.
273 Those criteria are a) Competitive choice and b) Effect on the USF. In the
274 Western Wireless ETC application, the criteria applied seemed to be similar.

275 **Q. HAS TRACFONE MET THE PUBLIC INTEREST STANDARD TO BE**
276 **AN ETC TO PROVIDE LIFELINE SERVICES?**

277 A. Yes. As is shown below in my testimony, the benefits of allowing TracFone to
278 compete for Lifeline customers outweigh any negative impacts.

279 **V. DIVISIONS PUBLIC INTERST ANALYSIS OF TRACFONE**

280 **Q. ONE CRITERION FOR DETERMINING THE PUBLIC INTEREST**

281 **STANDARD IS WHETHER THERE ARE THE BENEFITS OF**
282 **INCREASED CONSUMER CHOICE. HOW DOES TRACFONE'S**
283 **SERVICE SATISFY THIS CRITERION?**

284 A. In TracFone's application it states the following:

285 The benefits to consumers of being able to choose from among a variety
286 of telecommunications service providers have been acknowledged by
287 the FCC for more than three decades.¹ However, the benefits of
288 competitive choice are especially valuable in situations in which
289 wireless providers like TracFone seek to provide service to rural
290 communities and elsewhere. As the FCC recognized in Highland
291 Cellular, some households in rural communities do not have access to
292 the public switched network through the incumbent local exchange
293 carrier. Moreover, the availability of a wireless competitive alternative
294 benefits those rural consumers who often must drive significant
295 distances to work, schools, stores, and other community locations.²
296 TracFone's prepaid wireless service alternative will provide consumers
297 with convenient and affordable telecommunications service, both from
298 their residences and when they are away from their homes.
299 TracFone believes that many consumers, including qualified Lifeline
300 customers, view the portability and convenience of wireless service as a
301 modern necessity, not a luxury. Parents need to be able to reach their
302 children wherever they may be (and vice versa); persons seeking work
303 need to be reachable by potential employers; persons need to call for
304 emergency assistance while away from home. According to FCC data,
305 Utah's statewide Lifeline participation rate is only 12.4 percent of
306 eligible households.³ In other words, nearly eighty percent of low

¹ See, e.g., Specialized Common Carrier Services, 29 FCC2d 870 (1971).

² Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, 19 FCC Rcd 6422, ¶ 23 (2004).

³ See In the Matter of Lifeline and Link-Up, Report and Order and Further Notice of Proposed Rulemaking, FCC 04-87 (April 29, 2004) Table 1.A. The Universal Administrative Company estimates that in 2008 the participation rate for eligible households in Utah was between twenty and fifty percent (20-50%). See 2008 Participation Rates by State, available at <http://www.usac.org/li/about/participation-rate-information.aspx>.

307 income Utah households which are eligible to participate in Lifeline
308 are not doing so (emphasis in original).

309 The Division agrees with the application of TracFone that adding a wireless
310 provider for the low-income population will be beneficial. Allowing TracFone
311 to serve as an ETC meets the policy declarations in 54-8b-1-1(3&8) from the
312 State Legislature encouraging competition and encouraging new
313 technologies. An additional benefit to Lifeline customers with TracFone's
314 plan is that there is no charge to connect the phone. Currently, most Lifeline
315 customers pay some activation charge to companies to establish phone
316 service. For the transient and low-income segment of society, these
317 activation charges could become quite expensive, especially if charges occur
318 more than once a year. The Division sees the TracFone offering as a way to
319 minimize or eliminate such activation charges.

320 **Q. TRACFONE LISTS UNIQUE ADVANTAGES OF ITS SERVICE**
321 **OFFERING. DOES THE DIVISION AGREE WITH TRACFONE'S**
322 **OPINION?**

323 A. Yes. The Division agrees that TracFone's service:

324 offers consumers an opportunity to acquire wireless service using state-
325 of-the-art handsets and such features as caller ID, voice mail, text
326 messaging, and long distance calling without toll charges. Because
327 TracFone's service requires no term contracts, no minimum service
328 periods or volume commitments, no credit checks, and no early
329 termination fees, the service is available to everyone, irrespective of age;
330 irrespective of residency; irrespective of creditworthiness.

331 The Division also concludes, as TracFone suggested in its application, that
332 "TracFone's prepaid service offers Lifeline-qualified customers access, quality
333 and price. None of the incumbent providers nor those other non-incumbent

334 ETCs serving the areas covered by TracFone in Utah offer service to
335 consumers under comparable conditions.”

336 **Q. WHEN ANALYZING THE COSTS OF DESIGNATING AN ADDITIONAL**
337 **ETC, WHAT RECOMMENDATIONS DOES THE FCC PROVIDE?**

338 A. The FCC has declined to adopt a specific test to use when considering if an
339 ETC will affect the size and sustainability of the fund. Analyzing the impact of
340 one ETC on the overall size of the fund maybe inconclusive. Because the size
341 of the fund is billions of dollars, it is implausible that one ETC could impact
342 the FUSF.

343 Because of this challenge, the FCC recommends for high-cost support that a
344 per-line support received by the incumbent local exchange carrier should be
345 one of many considerations.

346 **Q. IN MR. FUENTES’ TESTIMONY HE DISCUSSES THE IMPACT**
347 **TRACFONE WILL HAVE ON THE UNIVERSAL SERVICE FUND. DO**
348 **YOU AGREE WITH HIS OPINION?**

349 A. No. In his testimony he states:

350 “The FCC considered the impact on the USF when determining whether
351 to grant TracFone’s petitions for designation as an ETC and concluded
352 that designation of TracFone as an ETC for the limited purpose of offering
353 Lifeline would not have a significant impact on the [FUSF]... ‘Any
354 increase in the size of the fund would be minimal and is outweighed by
355 the benefit of increasing eligible participation in the Lifeline program,
356 furthering the statutory goal of providing access to low-income
357 consumers.”

358 The Division reviewed the distributions from the FUSF to TracFone and the

359 impact appears to be more than “negligible,” as suggested by Mr. Fuentes.
 360 TracFone has seen substantial growth in disbursements within the last year,
 361 as the table below details.

362 Data from USAC FCC Filings – TracFone Lifeline Disbursements
 363 to date (first disbursements were received 3Q08):

STATE	2008 SUPPORT	1Q 09 SUPPORT	2Q 09 SUPPORT	TOTAL
Tennessee	\$949,124	\$2,634,906	\$3,887,399	\$7,471,429
Virginia	\$714,220	\$2,251,496	\$3,051,053	\$6,016,769
Florida	\$3,645,554	\$8,714,607	\$10,887,676	\$23,247,837
Massachusetts	\$0	\$756,777	\$2,967,891	\$3,724,668
New York	\$0	\$953,047	\$6,029,219	\$6,982,266
Georgia	\$0	\$814,452	\$4,118,234	\$4,932,686
Pennsylvania	\$0	\$190,893	\$836,610	\$1,027,503
Michigan	\$0	\$180,199	\$3,200,344	\$3,380,543
North Carolina	\$0	\$0	\$2,272,582	\$2,272,582
Delaware	\$0	\$0	\$36,203	\$36,203
TOTAL	\$5,308,898	\$16,496,377	\$37,287,211	\$59,092,486
Total Lifeline Program Support	\$771.7 M			

364 TracFone’s disbursements more than doubled from 1Q to 2Q of 2009. If one
 365 assumes that its support for these ten states will continue to double each
 366 quarter for 3Q and 4Q, total support for 2009 would be close to \$150 million.
 367 The potential addition of 14 more states between 3Q of 2009 and the end of
 368 2010, including California, could potentially add another \$200 million or more
 369 new support by the end of 2010. If one conservatively assumes that support in
 370 the first ten states will double in 2010 (for the whole year, not each quarter),

371 TracFone's draw for 2010 could meet or exceed \$500 million. Note that total
372 Lifeline program support for 2008 was \$771.7 million.

373 Clearly, the growth experienced by TracFone is not insignificant. Estimating a
374 FUSF balance of \$6.2 billion and projecting the \$500 million in revenues,
375 TracFone would be responsible for approximately 8% of the total FUSF fund.

376 **Q. DOES THE DIVISION BELIEVE THERE WILL BE THE SAME KIND**
377 **OF INCREASE TO THE STATE USF FUND?**

378 A. No. According to statements made by TracFone, seeking reimbursement from
379 the Utah USF is not planned. TracFone has never indicated a desire to be
380 classified as an ETC on the state level. The Division believes that if TracFone
381 wants a state designation, it would need to apply to the Commission to request
382 such designation.

383 **Q. WHEN DETERMINING PUBLIC INTEREST FOR A STATE ETC, DOES**
384 **THE DIVISION BELIEVE THE COMMISSION SHOULD CONSIDER**
385 **THE IMPACT ON THE STATE USF?**

386 A. Yes. Although the FCC prohibits examining the impact to the FUSF because it
387 believes the impact by one carrier will not be significant, the Division believes
388 that the Commission, when looking at an ETC for the State fund, should
389 consider the impact of the fund. As discussed earlier, the Commission took this
390 approach in the Western Wireless case as well as the Bresnan docket. Because
391 TracFone is not seeking funds from the State USF, there will be no direct
392 impact from TracFone receiving disbursements, but the Division would
393 recommend the Commission continue to determine if "increasing the burdens

394 on the state fund is in the public interest balanced against the corresponding
395 public benefits,” similar to what has been done in other cases.

396 The Division realizes that there will be some impact to the State USF fund by
397 indirect means. Currently the Commission contracts with the DCC to
398 administer the Lifeline verifications. The Division would expect an increase in
399 the costs of administering that contract as a result of a TracFone ETC
400 designation. Additionally, as TracFone wins customers from our rural phone
401 companies, the lost revenues would need to be offset by distributions to the
402 rural phone companies.

403 Even though there will be an impact to the State USF, the Division does not
404 see the impact being greater than the benefits provided by TracFone. The
405 SafeLink service offered by TracFone is not a plan that would plausibly be
406 substituted by consumers for their land line. The 67 minutes provided allows
407 for the phone to be used in emergencies and when mobility is needed, but it is
408 not going to be used for normal everyday usage. The Division believes the
409 more likely scenario is that consumers would keep their landline phone and
410 choose TracFone as a compliment to the landline phones. Therefore the
411 potential impact to rural companies is reduced.

412 **VI. OTHER CONCERNS WITH TRACFONE’S APPLICTION**

413 **Q. BESIDES THE IMPACT TO THE FUSF, DOES THE DIVISION HAVE**
414 **ADDITIONAL CONCERNS WITH THE TRACFONE APPLICATION?**

415 A. Yes. In the first set of data request responses from TracFone to the Division,
416 TracFone indicated that its revenues are not subject to rule R746-360-4 which

417 requires telecommunications corporations to pay surcharges to support the
418 Universal Public Telecommunications Service Support Fund. Additionally,
419 there are numerous cases across the United States where TracFone has argued
420 against paying into state 911 and e911 funds and other State USF support
421 funds.

422 The Division believes that the Commission should require TracFone to pay the
423 applicable surcharges for the USF and 911 services as well as any other
424 applicable surcharges. Currently, all telecommunications companies that have
425 retail intrastate rates are required to pay into the State USF, which the
426 Division believes includes pre-paid wireless competitors. To be equitable to all
427 companies and create a level playing field for competition, the Commission
428 should apply the same responsibilities for all companies.

429 **VII. CONCLUSION**

430 **Q. WHAT IS THE DIVISION'S RECOMMENDATION FOR THIS**
431 **PETITION?**

432 A. The Division recommends that the Commission grant the ETC designation of
433 TracFone for the limited purpose of providing Lifeline service to qualified
434 customers. The Division believes the benefits of increased choice, greater
435 flexibility with the phone service, and constant access to e911 services
436 outweighs the impacts to the FUSF. Additionally, because TracFone is not
437 seeking authority to receive disbursements from the State USF, the Division
438 does not believe the additional step of evaluating the impact to the State USF
439 is required.

440 The Division believes the Commission should require the TracFone to follow
441 the same procedures as any other telecommunications corporation to verify
442 potential customer's eligibility for the subsidy. The Commission should also
443 require as part of the ETC designation that TracFone should pay all applicable
444 surcharges into the State USF, 911 or e911, and any other applicable state
445 funds.

446 Q. Does this conclude your testimony?

447 A. Yes it does.