

<p>Gary A. Dodge, #0897 HATCH, JAMES & DODGE 10 West Broadway, Suite 400 Salt Lake City, UT 84101 Telephone: (801) 363-6363 Facsimile: (801) 363-6666 Email: gdodge@hjdllaw.com</p> <p>Attorneys for TracFone Wireless, Inc.</p>	<p>Mitchell F. Brecher GREENBERG TRAURIG, LLP 2101 L Street, NW, Suite 1000 Washington, DC 20037 Telephone: (202) 331-3100 Facsimile: (202) 261-0152 Email: brecher@gtlaw.com</p>
--	---

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>In the Matter of the Resolution of Certain Issues Related to the Designation of a Common Carrier as an Eligible Telecommunications Carrier</p>	<p align="center">Docket No. 10-2528-01</p> <p align="center">TRACFONE WIRELESS, INC.'S COMMENTS</p>
---	--

Pursuant to the Commission’s Order issued May 2, 2011, TracFone Wireless, Inc. (“TracFone”) files its comments on the issues set forth in that Order.

ISSUE 1: The Commission providing outreach regarding the availability of Lifeline services, as opposed to a particular ETC’s providing that outreach and communication (similar to what occurs in the Relay Utah program).

Comment

TracFone supports the Commission providing outreach regarding the availability of Lifeline services in Utah. TracFone suggests that any outreach provided by the Commission include information regarding Lifeline eligibility requirements, how to apply for Lifeline service, and annual Lifeline verification requirements. In addition, to the extent the Commission engages in outreach efforts, it should treat all ETCs providing Lifeline service in an equitable, fair and competitively neutral manner. For example, if the Commission lists ETCs offering Lifeline, then all ETCs must be listed without highlighting or recommending a particular ETC. In fact, ETCs providing Lifeline service

should be listed in a randomly-selected manner so that all ETCs have an equivalent chance to appear at or near the top of any Commission-compiled list.

The Commission's outreach efforts should not preclude ETCs' ability to conduct their own outreach and advertising in Utah. As TracFone stated in its Initial Proposal filed in this proceeding on April 26, 2011, it does not support mandatory outreach requirements that specify how ETCs must advertise because such requirements would interfere with an ETC's marketing strategy as it competes with other ETCs for Lifeline subscribers. ETCs should be able to craft their advertising and marketing efforts in response to the dictates of the marketplace and to actively and creatively promote the availability of their Lifeline programs.

ISSUE 2: What interim procedures or actions could be implemented quickly to allow newly approved ETCs to commence service in the *short-term*, while preserving more *long-term* issues for later resolution in this docket or future proceedings.

Comment

While this proceeding is pending, TracFone recommends that the Commission continue to apply its rules governing initial certification. Commission Rule R746-341-3 establishes procedures for determining the eligibility of applicants for Lifeline-supported services. That rule requires each ETC to provide Lifeline service to any applicant who self-certifies his or her eligibility under penalty of perjury. This procedure is identical to the federal requirements. As TracFone has explained in prior filings in this proceeding, any change to the self-certification process to require Lifeline applicants to provide documentation of program-based eligibility, would be extremely burdensome to applicants who often have difficulty locating and sending the required documentation to the ETC. TracFone has learned that many applicants for Lifeline enrollment do not have

such documentation readily available. Even if they do have the documentation, they often lack access to copying machines, scanners, fax machines and computers with Internet access, needed to provide copies of such documentation to the ETC. Full certification is also burdensome to the ETCs that are required to collect and review the documentation. Until a long term solution is developed and implemented, the Commission should permit ETCs to provide Lifeline service in accordance with the current rules. As the Commission is aware, the Federal Communications Commission (“FCC”) has proposed such a long-term solution, specifically, establishment of a national data base which would be available to all ETCs to determine whether applicants for enrollment in their Lifeline programs meet the applicable enrollment requirements.

TracFone also suggests that the Commission consider adopting an interim solution to prevent customers from receiving duplicate service from multiple providers (so-called “duplicate enrollment” or “double-dipping”). The FCC is currently considering ways to minimize double-dipping of the low-income portion of the federal Universal Service Fund (“USF”) in a rulemaking proceeding regarding potential changes to the FCC’s rules governing Lifeline and Link Up eligibility, certification, verification, and outreach.¹ As part of that FCC proceeding, the FCC is considering an interim process, proposed by a broad-based coalition of ETCs (including TracFone) to address

¹ See Lifeline and Link Up Reform and Modernization, et al., Notice of Proposed Rulemaking, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, FCC 11-32, released March 4, 2011.

duplicate enrollment caused by one household receiving Lifeline service from multiple ETCs.²

The interim procedure proposed to the FCC by a coalition of ETCs will involve the cooperative efforts of industry, the Universal Service Administrative Company (“USAC”), the FCC, and a third-party vendor to assist in identifying duplicate claims. It is expected that the FCC will soon issue an order approving that interim plan and establishing interim regulations so that the plan can be implemented.³ Once implemented, those customers who are enrolled in multiple Lifeline programs will be notified and given a brief period to select which of the Lifeline programs in which they wish to remain enrolled. Customers who fail to select a provider will be allocated to one of the Lifeline programs in which they were enrolled, and will be de-enrolled from the other ETC’s program. Following de-enrollment, ETCs will no longer receive USF support for de-enrolled customers.

TracFone believes that the interim procedures proposed to the FCC will provide an efficient and fair method for resolving duplicate enrollment situations and terminating payment of USF support to multiple ETCs. Until such time as all ETCs have access to data base information which will enable them to determine on a real time basis whether an applicant already is enrolled in another ETC’s Lifeline program, the potential for duplicate enrollment will continue to exist. Although the interim procedures will not

² See Letter filed in WC Docket No. 11-42, CC Docket No. 96-45, and WC Docket No. 03-109, dated April 15, 2011. A copy of the letter is attached as Attachment 1. Signatories to that interim proposal include the United States Telecom Association, AT&T, Cox Communications, Inc., Nexus Communications, Inc., TracFone Wireless, Inc., CTIA-The Wireless Association[®], CenturyLink, General Communication, Inc., Sprint Nextel Corp., and Verizon Communications, Inc.

³ TracFone will submit a copy of that order into the record of this proceeding once it has been adopted and released by the FCC.

prevent duplicate enrollment from occurring, it will resolve all current duplicate enrollments.

The interim procedure would be implemented on a state-by-state basis, beginning with states where the highest occurrence of individual Lifeline duplicate enrollment is known or anticipated (i.e., the states in which audits have already revealed significant numbers of duplicate enrollments or the states where prepaid wireless Lifeline providers have been active). Utah is not one of those states. TracFone suggests that this Commission consider adopting an interim procedure similar to that proposed to the FCC. In the interim procedure proposed to the FCC, participating ETCs have agreed to share the costs associated with using the procedure. Thus, if this Commission decided to adopt a similar procedure, the issue of how to fund the process would need to be determined. In addition, the Commission would need to determine whether and how USAC, and the FCC would be involved and whether a third-party vendor would be needed to collect and process enrollment data from all ETCs.

ISSUE 3: Which issues published in the *Notice of Agency Action and Supplement to Notice of Agency Action* are no longer relevant - either in whole or in part.

Comment

TracFone urges the Commission to revise the issues in the proceeding to delete the following issue: “The method of calculation and recovery of costs for verifying continuing eligibility of Lifeline customers, particularly for ETCs not paying to the state USF fund.” This proceeding was initiated to determine how to recover the costs of verification from ETCs that do not contribute to the state USF. As explained in detail in TracFone’s Initial Proposal, TracFone is not aware of any Commission determination that any ETC or category of ETCs is not required to contribute to the state USF. As such, the

Commission's articulation of the verification cost issue as focusing on ETCs that do not contribute to the state USF is no longer relevant.⁴

ISSUE 4: Identify issues to be discussed at the June 1, 2011 technical conference.

Comment

TracFone suggests that the following issues be discussed at the June 1, 2011 technical conference:

1. Interim procedures to address issues in this proceeding, including the parties' views on TracFone's proposal to resolve duplicate enrollment.
2. Revisions to the scope of the proceeding, including issues to be addressed.
3. Schedule for concluding this proceeding and/or initiating a rulemaking.

Respectfully submitted,

HATCH, JAMES & DODGE

/s/ _____
Gary A. Dodge

GREENBERG TRAURIG, LLP

/s/ _____
Mitchell F. Brecher

Attorneys for TracFone Wireless, Inc.

May 25, 2011

⁴ TracFone's Initial Proposal , at 1-5.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 25th day of May, 2011, on the following:

Patricia Schmid Assistant Attorney General Heber Wells Building 160 East 300 South, 5 th Floor Salt Lake City, Utah 84114 pschmid@utah.gov	Sonya Martinez SLCAP 764 South 200 West Salt Lake City, Utah 84101 smartinez@slcap.org
Paul Proctor Assistant Attorney General Heber Wells Building 160 East 300 South, 5 th Floor Salt Lake City, Utah 84114-0857 pproctor@utah.gov	Kathy Kinsman Assistant Attorney General Utah Department of Community & Culture 160 East 300 South, 5 th Floor P.O. Box 140857 Salt Lake City, Utah 84114-0857 kinsman@utah.gov
Michele Beck Cheryl Murray Eric Orton Utah Office of Consumer Services 160 East 300 South, 2 nd Floor P.O. Box 146782 Salt Lake City, Utah 84114-6782 mbeck@utah.gov cmurray@utah.gov eorton@utah.gov	Sherman Roquero Utah Department of Community & Culture 324 South State St., Suite 500 Salt Lake City, Utah 84114-9302 sroquero@utah.gov
William Duncan Casey Coleman Utah Division of Public Utilities 160 East 300 South, 4 th Floor Salt Lake City, Utah 84114 wduncan@utah.gov ccoleman@utah.gov	Timothy J. Funk Crossroads Urban Center 347 South 400 East Salt Lake City, Utah 84111 funk@crossroads-u-c.org
Stephen F. Mecham Callister Nebeker & McCullough 10 East South Temple, Suite 900 Salt Lake City, Utah 84133 sfmecham@cnmlaw.com	Sheila Stickel President & Executive Director Advocates for Universal Access, LLC P.O. Box 21914 Seattle, Washington 98111 Sheila@advocatesua.com

<p>Peter Lurie Elaine Divelbliss Virgin Mobile USA 10 Independence Blvd. Warren, New Jersey 07059 Peter.lurie@virginmobileusa.com Elaine.Divelbliss@virginmobileusa.com</p>	<p>Lance J.M. Steinhart Lance J.M. Steinhart, P.C. 1720 Windward Concourse, Suite 115 Alpharetta, Georgia 30005 (770) 232-9200 (Phone) (770) 232-9208 (Fax) Email: lsteinhart@telecomcounsel.com</p>
<p>Alex M. Duarte Qwest Law Department 310 SW Park Avenue, 11th Floor Portland, OR 97205 503-242-5623 (office) 503-242-8589 (fax) Alex.Duarte@qwest.com</p>	<p>Brett L. Tolman Ray Quinney & Nebeker P.C. 36 South State Street, Suite 1400 Salt Lake City, Utah 84111 BTolman@rqn.com</p>
<p>James L. Messenger LeClairRyan One International Place, Eleventh Floor Boston, Massachusetts 02110 James.Messenger@leclairryan.com</p>	<p>Eric Seguin Solix, Inc. 30 Lanidex Plaza West PO Box 685 Parsippany, NJ, 07054-0685 esequin@solixinc.com</p>

/s/ _____