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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Request of TracFone Wireless, Inc. to Amend its Designation as an Eligible Telecommunications Carrier to Receive Utah Universal Service Fund Support for Lifeline Service	Docket No. 17-2511-01
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TRACFONE WIRELESS, INC.'S AMENDED PETITION TO AMEND ITS DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER TO RECEIVE UTAH UNIVERSAL SERVICE FUND SUPPORT FOR LIFELINE SERVICE

TracFone Wireless, Inc. (“TracFone”), by its attorneys, hereby files this Amended Petition to Amend its Designation as an Eligible Telecommunications Carrier (“ETC”) to include authorization to receive Utah Universal Public Telecommunications Service Support Fund (“Utah USF”) support for Lifeline service within the State of Utah. As explained in this Amended Petition, TracFone will enhance its current SafeLink Wireless® Lifeline service offering to provide additional airtime minutes to qualifying low-income Utah households based upon its receipt of Utah USF support. In addition, TracFone will enhance its Walmart Family Mobile® Lifeline discount available to qualifying Utah households. Grant of TracFone’s

Amended Petition by the Public Service Commission of Utah (“Commission”) will serve the public interest by allowing qualifying Utah low-income households to receive enhanced Lifeline offerings and benefit from increased competition in the market for wireless Lifeline service.

I. PROCEDURAL HISTORY

On June 23, 2017, TracFone filed a petition with the Commission in this proceeding to amend its designation as an ETC to include authorization to receive Utah USF support for Lifeline service within the State of Utah. Earlier in 2017, the Utah State Legislature enacted statutory changes to Utah Code § 54-8b-15, the statutory provision that sets forth the Commission’s duties regarding Utah USF support. Those amendments, which became effective on July 1, 2017, state, in part, that “[a] facilities-based or nonfacilities-based wireless telecommunications provider is eligible for distributions from the Universal Telecommunications Service Support Fund under the lifeline program” Section 54-8b-15, as amended, also allows the Commission to promulgate rules governing wireless ETCs’ eligibility to receive Utah USF support. At the time TracFone filed its petition, the Commission had drafted proposed rules regarding the Utah USF, but had not adopted them. On June 30, 2017, the Commission issued an order staying TracFone’s petition until the Commission promulgated rules. On February 21, 2018, the Commission’s new rules governing the Utah USF became effective, and on March 6, 2018, the Commission issued an order lifting the stay.

TracFone files this Amended Petition to address issues that were not present in June 2017 when it initially filed a petition seeking to amend its designation as an ETC to include authorization to receive Utah USF support. Specifically, in the fall of 2018, TracFone introduced a new Lifeline plan that provides a discount to Lifeline-eligible customers enrolled in

the Walmart Family Mobile® Financial Assistance Program. In addition, as discussed above, the Commission promulgated new rules governing the Utah USF that had an effective date of February 21, 2018. The Commission's procedural rules permit a party to amend an initial pleading without leave of the Commission at any time before a responsive pleading has been filed.¹ In this proceeding, no pleading in response to the petition has been filed nor is such a responsive pleading contemplated by the rules. In accordance with the Scheduling Order dated March 20, 2018, the next scheduled filing is TracFone's direct testimony due on April 17, 2018. TracFone requests that the Commission accept this Amended Petition in lieu of the petition filed on June 23, 2017. TracFone will file its direct testimony on April 17, 2018 so this Amended Petition will not cause any delay in the proceeding.

II. BACKGROUND

TracFone is incorporated under the laws of the State of Delaware and is headquartered at Miami, Florida. Its corporate offices are located at 9700 N.W. 112th Avenue, Miami, Florida, 33178. TracFone is a reseller of commercial mobile radio service ("CMRS") throughout the United States, including the State of Utah. TracFone is currently the nation's leading provider of prepaid wireless telecommunications services, and one of the largest wireless carriers overall, with 22.7 million subscribers nationwide. TracFone provides resold wireless telecommunications service consisting of services obtained from licensed operators of wireless networks. TracFone has provided CMRS throughout the State of Utah continuously for more than fifteen years. In Utah, TracFone obtains service from the following underlying carriers:

¹ See Utah Admin. Code R746-1-205(1).

AT&T Wireless, T-Mobile, and Verizon Wireless. TracFone's arrangements with those providers enable it to offer services wherever any of those providers offer service in Utah.

On December 1, 2010, the Commission issued an Order designating TracFone as an ETC.² The Commission stated in the ETC Order that TracFone's ETC designation was subject to several explicit conditions, including the following: "TracFone shall receive no state USF support. If it desires state USF, it shall submit a new application requesting such support."³ TracFone now seeks the Commission's authorization to obtain Utah USF funds so that it may provide enhanced Lifeline plans to qualifying low-income Utah households. As demonstrated in this Amended Petition, TracFone is eligible to receive Utah USF support.

III. THE COMMISSION SHOULD AMEND TRACFONE'S ETC DESIGNATION TO INCLUDE APPROVAL TO RECEIVE UTAH USF SUPPORT.

By this Amended Petition, TracFone seeks the Commission's authorization to obtain Utah USF funds so that it may provide an enhanced Lifeline service to qualifying low-income Utah households. As described below, TracFone meets Utah's statutory and regulatory requirements for receipt of Utah USF support.

² See *In the Matter of the Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Limited Purpose of Offering Lifeline Service to Qualified Customers*, Amended Report and Order and Order on Request for Limited Reconsideration, Docket No. 09-2511-01, December 1, 2010 ("ETC Order"), *aff'd on recons.*, Order on Reconsideration, March 9, 2011.

³ ETC Order, at 21. Based on informal communications with Commission Staff, TracFone was advised that it did not need to reapply for designation as an ETC to seek Utah USF support. Therefore, by this Amended Petition, TracFone seeks to amend its current ETC designation so that it may receive Utah USF support.

A. TracFone Meets Applicable Utah Law Requirements for Receipt of Utah USF Support.

Section 54-8b-15 of the Utah Code, as amended, relates to several aspects of the Utah USF, including funding, calculation of a contribution charge, and permitted uses of support. In addition, it provides:

A facilities-based **or nonfacilities-based** wireless telecommunications provider is eligible for distributions from the Universal Telecommunications Service Support Fund under the lifeline program described in Subsection 3(b) for providing lifeline service that is consistent with the Federal Communications Commission's lifeline program for low-income consumers.⁴

TracFone, as a nonfacilities-based wireless telecommunications provider, is eligible for distributions from the Utah USF to support its Lifeline service.

Section 54-8b-15(2)(c) directs the Commission to develop by rulemaking “policies and procedures to govern the administration of the fund.” The statute further provides that the Commission “may impose reasonable conditions for providing a distribution to a wireless telecommunications provider under the lifeline program.”⁵ The Commission's recently amended rules include conditions for receipt of Utah USF support that are applicable to all ETCs, as well as minimum service standards that are applicable to wireless ETCs. As described in this Amended Petition, TracFone meets each of these conditions.

The Commission's rules provide that “an ETC may receive an ongoing distribution through ongoing participation in a Commission-approved Lifeline program upon a specific

⁴ Utah Code § 54-8b-15(15)(a) (2017) (emphasis added). Subsection 3(b) provides that the Commission shall use funds in the Utah USF to “fund a lifeline program that covers the reasonable cost to an eligible telecommunications carrier, as determined by the commission, to offer lifeline service consistent with the Federal Communications Commission's lifeline program for low-income consumers.” Utah Code § 54-8b-15(3)(b).

⁵ *Id.* § 54-8b-15(15)(b).

finding of public interest by the Commission.”⁶ For the reasons stated in Section III.C. of this Amended Petition, amendment of TracFone’s ETC designation to include authorization to receive Utah USF support will serve the public interest.

As detailed in R746-8-403(2) of the Utah Administrative Code, Utah USF support “may not exceed \$3.50 per Lifeline subscriber per month of subscription to a service” that meets certain minimum service standards. Specifically, the Lifeline service must (1) meet Federal Communications Commission (“FCC”) Lifeline requirements for broadband set forth in 47 C.F.R. § 54.408 and “for wireless Lifeline, allow[s], at no charge beyond the basic monthly fee, unlimited texting and at least 750 voice minutes per month” or (2) meet FCC requirements for broadband set forth in 47 C.F.R. § 54.408 and “not include a voice component.” TracFone’s enhanced Lifeline plans described below in Section III.B. of this Amended Petition meet the first prong of the minimum service standards by offering mobile broadband Internet access service that meets the FCC’s standards, unlimited texting, and at least 750 airtime minutes for no additional charge to Lifeline-eligible consumers.

TracFone will comply with the Commission’s rules governing ETCs that are approved to participate in Utah’s Lifeline program. In particular, TracFone will fulfill the duties as detailed in R746-8-403(3) and (4). Those duties include: providing potential Lifeline subscribers with application materials and information; verifying the eligibility of Lifeline applicants using the FCC’s national verifier system or, if the national verifier system is not operational, through Utah’s Lifeline program administrator; submitting a Lifeline subscriber list to Division of Public Utilities by May 1

⁶ Utah Admin. Code R746-8-403(1).

each year; and neither requiring nor prohibiting a Lifeline subscriber from purchasing additional services from the ETC.

B. TracFone Will Use Utah USF Support to Offer Enhanced Lifeline Plans to Utah Low-Income Households Eligible for Lifeline Service.

The Utah USF provides ETCs with up to an additional \$3.50 per month per Lifeline customer beyond the \$9.25 monthly Lifeline benefit provided under the federal Lifeline program.⁷ TracFone, as a recipient of Utah USF support, would offer enhanced Lifeline service to qualifying low-income Utah residents under its SafeLink Wireless[®] and Walmart Family Mobile[®] brands. If this Amended Petition is approved and TracFone is allowed to receive funds from the Utah USF, it will use the \$3.50 per customer per month in state support to provide every customer enrolled in its SafeLink Wireless[®] Lifeline service with an additional 400 minutes per month in wireless voice service airtime above the amount customers receive under the federal Lifeline program (for a total of 750 no charge minutes) and to provide an increased discount to customers enrolled in the Walmart Family Mobile[®] Financial Assistance Program. The details of these plans are described in the following section of this Amended Petition.

SafeLink Wireless[®] Lifeline Service

TracFone will offer SafeLink Wireless[®] Lifeline customers in Utah a bundled mobile broadband data and voice plan that includes 750 airtime minutes and 1 GB of mobile broadband data service at a minimum of 3G speed. The voice portion of the bundled plan will include unlimited text messages, voicemail, caller ID, national long distance calling without toll charges, and no charges for roaming. New SafeLink Wireless[®] Lifeline customers who enroll in Lifeline via an authorized sales agent will need to use their own smartphone to receive Lifeline service.

⁷ See Utah Admin. Code R746-8-403(2)(a).

New SafeLink Wireless® Lifeline customers who enroll in Lifeline via TracFone’s website or by calling TracFone have the option of receiving a free Android smartphone from TracFone that is Wi-Fi-capable, or using their own smartphone. Those SafeLink Wireless® customers who provide their own smartphone will receive an additional 500 MB of data, for a total of 1.5 GB of data, for the first three months for which they are Lifeline bundled data and voice customers. Those Lifeline customers will then receive 1 GB of data starting with the fourth month of service.⁸

TracFone’s enhanced bundled mobile broadband data and voice Lifeline service will meet the Commission’s minimum service standard for receipt of Utah USF support because it will provide 750 wireless voice minutes and unlimited texting for no additional charge and will comply with the FCC’s requirements for broadband Lifeline service. The FCC’s rules, effective December 1, 2017, require mobile broadband data service providers to offer at least 1 GB of mobile broadband data service at a minimum of 3G speed to qualify for broadband federal

⁸ TracFone has a small subset of current SafeLink Wireless® customers who receive voice-only Lifeline service that provides 1,000 airtime minutes and unlimited texting each month. Those customers were enrolled in TracFone’s SafeLink Wireless® program prior to December 2, 2016. That was the effective date of the FCC rules which modernized the Lifeline program to support broadband service. Prior to that date, TracFone provided its Lifeline consumers with wireless phones, but not smartphones. Such devices were not suitable for broadband Internet access. For that reason, those “legacy” customers remained enrolled in a voice-only program which meets the FCC’s minimum service standards for voice service. A voice-only plan does not qualify for Utah USF support. However, any TracFone current voice-only Lifeline customers who decide to change their plan to the bundled voice and mobile broadband data plan will receive the enhanced Lifeline benefits supported by the Utah USF as described in this Amended Petition. Such customers will need to bring their own smartphones to receive bundled voice and data SafeLink Wireless® Lifeline service. They will receive an additional 500 MB of mobile broadband data service for the first three months for which they are Lifeline bundled voice and mobile broadband data customers.

Lifeline support.⁹ As noted above, the mobile broadband data portion of TracFone's bundled data and voice Lifeline service includes 1 GB of data at 3G speed.

TracFone's standard bundled mobile broadband data and voice Lifeline service includes 350 voice minutes and 1 GB of data each month in all states where TracFone does not receive state USF support. Under the enhanced bundled mobile broadband data and voice plan for Utah, TracFone's Utah SafeLink Wireless® Lifeline consumers will receive an additional 400 minutes per month above the number of minutes that would be available under its Utah plan supported solely by the federal USF without Utah USF support. TracFone's provision of an additional 400 voice minutes in its bundled voice and mobile broadband data service for a total of 750 voice minutes will ensure that TracFone's Utah Lifeline customers will receive the full benefit of the additional support from the Utah USF.

Walmart Family Mobile® Financial Assistance Lifeline Program

TracFone also offers Lifeline-eligible Utah households a TracFone Wireless Financial Assistance Program funded by the federal USF Lifeline Program. The Financial Assistance Program is available to customers who purchase a Walmart Family Mobile® plan that meets the federal minimum service standards for Lifeline set forth in 47 U.S.C. § 54.408. Customers who qualify for the Financial Assistance Program currently receive a discount of \$9.25 per month to reduce the cost of their Walmart Family Mobile® monthly phone service. However, upon the Commission's approval of TracFone's request to receive Utah USF support, TracFone will

⁹ See 47 C.F.R. § 54.408(b)(2). The minimum monthly service standard for mobile broadband Lifeline service increased to 1 GB on December 1, 2017, and will increase to 2 GB on December 1, 2018 and to an amount to be calculated in accordance with the FCC's rules on and after December 1, 2019.

increase the amount of the discount by \$3.50 so that the total discount on any qualifying Walmart Family Mobile® plan will be \$12.75.

TracFone currently offers the following Walmart Family Mobile® plans, each of which meets the federal minimum service standards:

- Unlimited Talk, Text & Data (First 1GB up to 4G LTE speed, then 2G speed) for \$24.88.
- Unlimited Talk, Text & Data (First 3 GB up to 4G LTE speed, then 2G speed) for \$29.88.
- Unlimited Talk, Text & Data (First 9 GB up to 4G LTE speed, then 2G speed) for \$39.88.
- Unlimited Talk, Text & Data (at 4G LTE speed) for \$49.88.

Those customers who qualify for the Financial Assistance Program will receive a \$12.75 discount off of the retail prices listed above if the Commission authorizes TracFone to receive Utah USF support.

The Financial Assistance Program meets the Commission's minimum service standard for receipt of Utah USF support because it provides Lifeline-eligible consumers with unlimited voice minutes and texting for no additional charge beyond the charge stated above (therefore, meeting the 750 voice minute and unlimited texting requirement) and unlimited mobile broadband data service with at least 1 GB at a minimum of 3G speed (therefore, meeting the FCC's 1 GB at 3G speed requirement for mobile broadband data).

C. Amendment of TracFone's ETC Designation to Include Authorization to Receive Utah USF Support Will Serve the Public Interest.

Expansion of TracFone's designation as an ETC to include Utah USF support will serve the public interest by enabling TracFone to provide enhanced Lifeline benefits to Utah Lifeline

customers. Those enhanced Lifeline benefits will provide a valuable alternative to the existing Lifeline services available to low-income Utah households. Specifically, TracFone's receipt of Utah USF support will benefit low-income Utah consumers by increasing the number of Lifeline providers able to use the additional Utah USF support to offer enhanced Lifeline service. TracFone's offer of additional airtime minutes to SafeLink Wireless® customers will better enable those customers to obtain calling capacity sufficient to meet all their telecommunications requirements. Utah Lifeline consumers will have more minutes to contact (or be contacted by) current and prospective employers, health care providers, government services, and most importantly, to remain in contact with family members and friends. Similarly, TracFone's offer of an increased discount to qualifying Walmart Family Mobile® customers will allow customers to choose the bundled mobile broadband data and voice plan that best meets their needs while making the cost of the plan more affordable. No other Lifeline provider operating in Utah offers consumers choices which include no charge Lifeline services such as the SafeLink Wireless® program and plans which include discounts off of paid services such as the Walmart Family Mobile® plans.

Utah Lifeline households overwhelmingly choose wireless Lifeline service over wireline Lifeline service. As of December 2017, 40.7 percent of all ETCs receiving federal USF support in Utah and serving non-Tribal lands are wireless carriers. However, those wireless carriers received 87 percent of the federal USF support distributed to Utah carriers serving non-Tribal lands in 2017.¹⁰ Those data demonstrate the large and growing demand by low-income Utah households residing on non-Tribal lands for wireless Lifeline services. Low-income Utah

¹⁰ See LI05 Annual Low Income Support Claimed by State and Company January 2015 through December 2017.xlsx, available at <http://www.usac.org/about/tools/fcc/filings/2018/q2.aspx>.

residents would benefit from increased competition within the Lifeline service market. Increased competition leads to additional consumer choices and delivery of greater value services to consumers. If the Commission authorizes TracFone to receive Utah USF support, then TracFone will be able to deliver enhanced service choices and greater value to qualifying Utah households as described in this Amended Petition.

CONCLUSION

Based on the foregoing, TracFone requests that the Utah Public Service Commission promptly grant its Amended Petition to amend TracFone's designation as an ETC to include approval to receive Utah USF support for Lifeline service provided to its Utah Lifeline customers.

DATED this 16th day of April 2018.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I CERTIFY that on April 16, 2018, a true and correct copy TracFone Wireless, Inc.'s Amended Petition to Amend its Designation as an Eligible Telecommunications Carrier to Receive Utah Universal Service Fund Support for Lifeline Service was delivered upon the following as indicated below:

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