

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**Petition to Implement Automatic
Enrollment for Lifeline Telephone Service**

)
) **Docket No. 060677-TL**
)
)

PETITION FOR LEAVE TO INTERVENE

TracFone Wireless, Inc. (“TracFone”) by its attorneys, pursuant to Fla. Admin. Code r. 25-22.039, hereby petitions for leave to intervene in the above-captioned matter, filed October 11, 2006. In support of this petition, TracFone states as follows:

TracFone is a commercial mobile radio service (“CMRS”) provider that provides wireless telecommunications services in the State of Florida.¹ TracFone’s corporate headquarters are located at 8390 NW 25th Street, Miami, Florida 33122. TracFone’s telephone number is (305) 640-2000. TracFone offers only prepaid wireless service. Unlike traditional wireless services, TracFone service is provided on a “pay-as-you-go” basis, with no customer contracts, no service duration or volume commitments, no termination penalties, no credit checks. Moreover, since TracFone service is entirely prepaid, there are no periodic bills and no taxes, fees or other surcharges added to the prices paid by TracFone’s customers. Because of these factors, many TracFone customers are low volume, low income users.

On October 11, 2006, the citizens of Florida, through Harold McLean, Public Counsel, and AARP, filed with the Commission a Petition to Implement Automatic Enrollment for Lifeline Telephone Service (hereinafter, (“Public Counsel/AARP Petition”). The Public Counsel/AARP Petition requests an order requiring local exchange telecommunications

¹ TracFone is a CMRS provider as that term is defined under federal law (47 U.S.C. § § 153(27), 332(d), and under Florida law (Fla. Stat. Ch. 364.02(3)).

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companies in Florida to implement practices and procedures with the Department of Children and Families to automatically enroll eligible customers in the Lifeline telephone program. The purpose of the Public Counsel/AARP Petition is to increase Lifeline participation in Florida. As described below, TracFone fully supports that objective. However, it urges the Commission not to implement an automatic enrollment program in a manner which limits the participation only to incumbent wireline local exchange carriers, and which excludes other Eligible Telecommunications Carriers (ETCs) which also offer Lifeline programs.

TracFone filed a Petition for Designation as an Eligible Telecommunications Carrier in the State of Florida (“ETC Petition”) with the Federal Communications Commission (“FCC”) on July 21, 2004 so that it could provide Lifeline service to low income Florida consumers who qualify for participation in the Lifeline program.² TracFone filed its ETC Petition with the FCC because the Commission lacks jurisdiction over CMRS providers.³ TracFone’s ETC Petition was contingent on the FCC’s grant of a petition for forbearance concerning the statutory requirement in 47 U.S.C. § 214(e) that an ETC offer service using its own facilities or a combination of its own facilities and resale of another carrier’s services. The FCC granted TracFone’s petition for forbearance on September 6, 2005. In granting that forbearance petition, the FCC acknowledged that TracFone “would be offering Lifeline-eligible consumers a choice of providers not available to such consumers today . . .” and that TracFone’s “prepaid feature may be an attractive alternative for such consumers who need the mobility, security, and convenience

² Unlike other carriers’ ETC applications, TracFone has sought ETC designation for the sole purpose of offering Lifeline service to qualified low income Florida consumers. TracFone has not sought ETC designation for the purpose of receiving high cost support, and it has no interest in receiving high cost support from the Universal Service Fund.

³ See In re: Petition for declaratory statement that NPCR, Inc. d/b/a Nextel Partners, commercial mobile radio service provider in Florida, is not subject to jurisdiction of the Florida Public Service Commission for purposes of designation as “eligible telecommunications carrier”, Order No. PSC-03-1063-DS-TP (Sept. 23, 2003).

of a wireless phone but who are concerned about usage charges or long-term contracts.”⁴ However, due to bureaucratic delay, TracFone’s ETC Petition remains pending. Upon grant of its ETC Petition, TracFone will immediately commence offering Lifeline services to consumers in Florida who are eligible to enroll in its Lifeline program.

TracFone agrees with the Public Counsel/AARP that “Lifeline participation in Florida remains stagnant at unacceptably low levels.” Public Counsel/AARP Petition, ¶ 3. In requesting ETC status in Florida, TracFone recognized that the participation rate among Floridians eligible for Lifeline assistance was unacceptably low. It believed -- and continues to believe -- that a well-planned and well-marketed wireless Lifeline program will be attractive to many low income Florida households whose telecommunications needs may best be fulfilled by a wireless option, and that such a program will increase the level of participation in Lifeline. TracFone is committed to extensively marketing its Lifeline program to customers who are eligible for Lifeline.

TracFone is concerned that the automatic enrollment program contemplated by Public Counsel and AARP may exclude Lifeline offerings of TracFone and other Eligible Telecommunications Carriers, and could limit Lifeline-eligible consumers to the Lifeline programs of wireline incumbent local exchange carriers. Public Counsel/AARP suggests that Lifeline participation would be increased under the following scenario:

Although the Commission has no authority over the Department of Children and Families, the exercise of the Commission’s authority over the local exchange telecommunications companies, combined with the Legislature’s directive to state agencies to develop procedures to promote Lifeline participation, should result in an effective program of automatic enrollment for those persons who participate in a qualifying program administered by the Department of Children and Families.

⁴ 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 150095 (2006), at ¶ 15.

Public Counsel/AARP Petition, ¶ 11. Implicit in the Public Counsel/AARP Petition is the notion that only incumbent wireline local exchange carriers over which the Commission has authority (which would exclude CMRS ETCs such as TracFone) would be allowed to participate in the automatic enrollment program. Thus, the Public Counsel/AARP Petition could be read so as to propose that qualifying individuals would only be automatically enrolled in Lifeline services offered by incumbent wireline local exchange carriers, notwithstanding the fact that there are multiple telecommunications service providers which have been designated as ETCs in Florida and that there are likely to be more in the future, and despite the fact that many Lifeline-eligible consumers may prefer the services offered by other, non-ILEC, ETCs.

TracFone recognizes the need to increase Lifeline participation within Florida, and supports efforts to increase that participation. However, it opposes any automatic enrollment program in which qualifying individuals would be deprived of a choice regarding the ETCs from which they could receive Lifeline services. Such a program would be inconsistent with Section 214(e)(2) of the Communications Act (47 U.S.C. § 214(e)) which contemplates that more than one carrier may be designated as an ETC. As a prospective ETC in Florida, TracFone wants to ensure that qualifying individuals have the opportunity to obtain Lifeline service from any ETC, including TracFone. Moreover, it seeks to ensure that efforts by the Commission to increase Lifeline participation not have the unintended consequence of favoring or disfavoring any ETC or any technology used to offer Lifeline services, thereby limiting consumer choice.

Accordingly, TracFone proposes that any automatic enrollment program be structured in a manner which would allow Lifeline-eligible consumers to choose their service provider from among all designated ETCs, whether wireline or wireless, irrespective of whether they have been

designated by the Commission or by the FCC, and irrespective of whether the ETCs are “regulated” by the Commission.

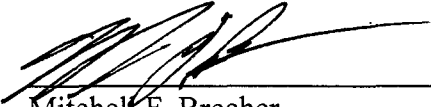
TracFone shares Public Counsel/AARP’s concerns about the low participation rate and about the substantial and growing net outflow of Universal Service Fund support from Floridians. As noted in the Public Counsel/AARP Petition, Florida’s net Universal Service deficit in 2004 was nearly \$250,000,000.⁵ According to FCC data, that is the highest net deficit of any state. A properly-designed enrollment program should expand participation in Lifeline by Florida consumers and reduce the unacceptably high universal service deficit which burdens Florida consumers.

Based on the foregoing, TracFone’s substantial interests will be affected through this proceeding. TracFone looks forward to addressing the issues raised in this proceeding and to being an active participant in this proceeding. Wherefore, TracFone respectfully requests the Commission to grant its petition for leave to intervene in this proceeding.

Respectfully submitted,

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October 30, 2006

⁵ Public Counsel/AARP Petition at 5.

CERTIFICATE OF SERVICE

I, Michelle D. Guynn, a Legal Assistant with the law firm of Greenberg Traurig, LLP, hereby certify that on October 30, 2006, I have served a copy of the foregoing Petition for Leave to Intervene on all parties of record in this proceeding by mailing a copy thereof, properly addressed with first class postage prepaid on the following:

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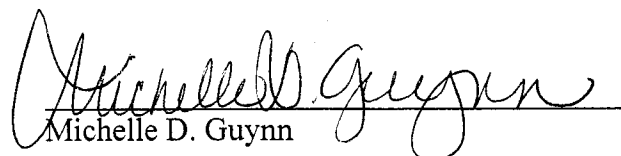
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