

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Petition of)	
TracFone Wireless, Inc. for)	
Designation as an Eligible)	<u>Case No. RA-2019-0012</u>
Telecommunications Carrier in the)	
State of Missouri for the)	
Limited Purpose of Offering)	
Lifeline Service to Qualified Households)	

RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Recommendation* in this matter hereby states:

1. On July 16, 2018, TracFone Wireless, Inc. (Company or TracFone) filed a *Motion to Provide Lifeline Service Through Additional Brands* with the Commission in Case No. RA-2019-0012 requesting that this Commission issue an order permitting TracFone to offer Lifeline service through additional brand names beyond its SafeLink Wireless brand, specifically Walmart Family Mobile. The Company was previously approved as an eligible telecommunications carrier (ETC) in Case No. TA-2009-0327.

2. Staff conducted an investigation pursuant to the filing of this matter. Staff found that Commission rule 4 CSR 240-31.130(2)(G) prohibits an ETC from the use of additional brand names. This element of the rule has also been proposed and approved by the Commission in the pending rule 4 CSR 240-31.015(1)(A). However, as outlined in greater detail in Staff's Memorandum attached as Appendix A, Staff recommends that it is appropriate

for the Commission to waive its rule under the narrow circumstances when a company's use of an additional brand name is that of an entity owned and operated by the company.

3. Staff asks the Commission to waive its rule for the Company specifically in this case due to the fact that TracFone owns and operates Walmart Family Mobile.

WHEREFORE, Staff recommends that the Commission waive its rule 4 CSR 240-31.130(2)(G); authorize TracFone to provide Lifeline services under the brand name Walmart Family Mobile; recognize TracFone will continue to provide service using SafeLink Wireless; direct TracFone to provide advance notice when offering Lifeline service under additional names as outlined in Staff's memorandum; and grant such other and further relief as the Commission considers just in the circumstances.

/s/ Whitney Payne

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 17th day of September, 2018, to all counsel of record.

/s/ Whitney Payne

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. RA-2019-0012

From: Kari Salsman, Utility Policy Analyst I

Subject: Staff Recommendation Regarding TracFone Wireless, Inc. Application to
Provide Lifeline Service through Additional Brands

Date: September 17, 2018

On July 16, 2018 TracFone Wireless, Inc. (TracFone) filed an application with the Missouri Public Service Commission seeking authorization to provide Lifeline service through additional brand names. The company currently offers Lifeline service solely through the name “SafeLink Wireless”. At this time the company wants to use the name “Walmart Family Mobile” in addition to SafeLink Wireless. TracFone owns and operates Walmart Family Mobile. With the exception of Missouri and California, TracFone is providing Lifeline service using the Walmart Family Mobile name in all states where the company also uses the SafeLink Wireless name. TracFone is consolidating Lifeline reporting obligations for both companies. According to TracFone the two companies (SafeLink Wireless and Walmart Family Mobile) offer different service plans and will expand choices for Lifeline consumers. TracFone has expressed it may want to offer Lifeline service under more company names in the future and proposes to provide advance notice to the Commission.

TracFone’s proposal conflicts with Commission rule 4 CSR 240-31.130(2)(G). This existing rule specifically prohibits an ETC from using additional brand names.¹ This rule is also contained in pending rule 4 CSR 240-31.015(1)(A) recently approved by the Commission in Case No. TX-2018-0120. In general, Staff supports limiting an ETC’s name usage as maintained in these rules. Such an arrangement minimizes confusion. Nevertheless, TracFone’s proposal may be reasonable if its authorization is limited to only names of entities owned and operated by TracFone. TracFone’s marketing ensures consumers are aware the underlying service is being provided by TracFone, which Staff finds may minimize potential confusion. Limiting a company’s use of additional names to an entity owned and operated by the company also better ensures the company maintains full control of all Lifeline program requirements.

In response to TracFone’s request, Staff recommends the Commission waive its name limitation rule for TracFone on the condition the waiver is limited only to circumstances where the additional name is for an entity owned and operated by TracFone. Stated differently the waiver should not allow TracFone to offer Lifeline

¹ 4 CSR 240-31.130(2)(G) states an ETC shall solely conduct business using the name or “DBA” under which the commission granted ETC designation and no additional service or brand names, unless the ETC properly files for a name or “DBA” change pursuant to 4 CSR 240-1.130(2)(M).

service for any entity not owned and operated by TracFone. In addition, TracFone should be instructed to file notice to the Commission of the company's use of any additional names. Notice could be in the form of a letter submitted into EFIS for this case.² Such notice should be provided at least thirty days prior to the use in Missouri of the additional company name. The notice should also confirm the additional name is for an entity owned and operated by TracFone.

This arrangement, if accepted by the Commission, warrants reconsideration of the official name of the company as recognized by the Commission. TracFone Wireless, Inc. d/b/a SafeLink Wireless is the official name currently recognized by the Commission; however, if the company is allowed to offer Lifeline service using multiple names then the name should simply revert back to "TracFone Wireless, Inc."³ In Staff's opinion this name fits best with TracFone's proposal for using multiple names. The name change could be conducted in the same order waiving the rule permitting the company to offer Lifeline service under additional names. Staff recommends the order also reflect that the company intends to maintain service under the name "SafeLink Wireless".

In summary Staff recommends the Commission allow TracFone to offer Lifeline service using additional names under limited circumstances as follows :

- Waive the rule allowing TracFone to use additional names if the additional name is for an entity owned and operated by TracFone.⁴
- Direct TracFone to provide advance notice to the Missouri Public Service Commission as previously discussed in this memo.
- Officially change the name of the company as recognized by the Missouri Public Service Commission for ETC purposes. The name should be changed from TracFone Wireless, Inc. d/b/a SafeLink Wireless to TracFone Wireless, Inc.
- Reflect the company's intent to maintain service using the d/b/a name SafeLink Wireless.

² Alternatively to filing the letter in this case the letter could be filed as a non-case related ETC Informational submission.

³ The Commission's order issued in 2009 for Case No. TA-2009-0327 originally granted ETC status to "TracFone Wireless, Inc.". This name was changed in 2011 to "TracFone Wireless, Inc. d/b/a SafeLink Wireless" in Case No. RA-2013-0333.

⁴ Specifically the relevant existing rule to be waived is 4 CSR 240-31.130(2)(G); however, given the Final Order of Rulemaking recently issued in Case No. TX-2018-0120 the waiver should also apply to new rule 4 CSR 240-31.015(1)(A) that will essentially replace 4 CSR 240-31.130(2)(G) in the coming months.