

Tier One. The tariffed rate in effect for the primary residential End User Common Line charge of the incumbent local exchange carrier serving the area in which the qualifying low income consumer receives service, as determined in accordance with § 69.104, or §§ 69.152(d)(1) and 69.152(q) of this chapter, whichever is applicable.¹

3. Stated simply, Section 54.403(a)(1) of the FCC's rules limits the amount of Tier One Lifeline support available to ETCs to the amount of the Subscriber Line Charge ("SLC") (also called the End User Common Line Charge) assessed by the incumbent local exchange carrier ("ILEC") which happens to serve the geographic area where an ETC provides Lifeline service. The FCC caps the maximum permissible SLC at \$6.50 per line per month. However, not all ILECs assess a SLC at the capped amount. As Staff notes correctly in its July 21 response to a prior Commission Order Directing Filing, in Missouri, many incumbent LECs assess SLCs at the capped amount. However, AT&T - the largest ILEC in Missouri -- assesses a monthly SLC in the amount of \$5.31 -- well below the capped maximum amount.

4. Since the commencement of TracFone's efforts to become designated as an ETC and to provide Lifeline service, it has been TracFone's unwavering commitment to provide to each of its Lifeline customers in every jurisdiction where it offers its SafeLink Wireless Lifeline service a Lifeline benefit equal to one hundred percent of the Lifeline support it receives from the federal USF, plus an additional Lifeline benefit of \$3.50 which it funds itself.² It also has been TracFone's policy to provide the maximum allowable benefit.

5. As a non-ILEC ETC and as a provider of Commercial Mobile Radio Service, TracFone is not subject to FCC rules governing SLCs. It does not impose SLCs on its

¹ 47 C.F.R. § 54.403(a)(1).

² This is in addition to the free E911-compliant wireless handset which TracFone provides to every SafeLink Wireless customer.

customers, nor is it required to do so. It makes no public policy sense to limit the amount of Lifeline benefit which a non-ILEC ETC may provide to its low-income Lifeline customers based on the amount of the SLC charged by ILECs serving the same geographic areas.

6. Wherever TracFone receives Tier One support based on the \$6.50 capped amount, it is able to provide a Lifeline benefit of \$13.50, by adding \$3.50 above the \$10.00 in Tier One, Tier Two, and Tier Three USF support which it receives. Based on TracFone's \$0.20 per minute rate, that results in a monthly Lifeline benefit of 68 minutes of wireless airtime. TracFone would like nothing better than to be able to provide that 68 minute per month benefit to every SafeLink Wireless customer, including every Missouri customer.

7. Since SafeLink Wireless is offered on a statewide basis with a uniform benefit throughout the state, in states where there are different SLCs charged by different ILECs, TracFone calculates its Lifeline benefit based on the weighted average of the SLCs in that state. Because AT&T is the ILEC in much of Missouri, that weighted average is below \$6.50. That is why TracFone's proposed Lifeline benefit in Missouri is 66 minutes of wireless airtime rather than 68. Grant of its waiver petition by the FCC would enable TracFone to provide Missouri Lifeline customers with the full 68 minutes benefit currently being provided to customers in states where it is allowed to receive the maximum level of Tier One support.³

8. In its July 21 response to the earlier Commission Order Directing Filing, Staff recommended that the Commission condition approval of TracFone's ETC petition on the provision of an additional pro-rata benefit to those Lifeline customers located in the service area

³ The Commission should be aware that on March 5, 2009, TracFone petitioned the FCC to commence a rulemaking for the purpose of modifying Section 54.403(a)(1) so as to allow all ETCs to receive maximum Tier One support without regard to an ILEC's SLC, provided that the ETC commits to pass through to its Lifeline customers the full amount of federal USF support which it receives, plus at least \$3.50 as an additional Lifeline benefit.

of AT&T if the FCC grants TracFone's waiver request. As noted above, TracFone provides a statewide uniform Lifeline benefit. Therefore, if the FCC grants TracFone's requested waiver, all SafeLink Wireless customers in Missouri will receive an enhanced Lifeline benefit of 68 minutes per month, not only those customers who happen to reside in areas where AT&T is the ILEC.

Respectfully submitted,

/s/ Mark P. Johnson

Mark P. Johnson, MO #30740
Sonnenschein Nath & Rosenthal LLP
4520 Main Street, Suite 1100
Kansas City, Missouri 64111
(816) 460-2400
(816) 531-7545 (facsimile)
mjohnson@sonnenschein.com

Mitchell F. Brecher
Debra McGuire Mercer
GREENBERG TRAURIG, LLP
2101 L Street, NW
Suite 1000
Washington, D.C. 20037
(202) 331-3100

Counsel for TracFone Wireless, Inc.

August 4, 2009

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing was served via e-mail on this 4th day of August, 2009, on counsel of record.

/s/ Mark P. Johnson
Mark P. Johnson