

**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)	Case No. TA-2009-0327
Telecommunications Carrier in the State of)	
Missouri.)	

NOTICE OF EX PARTE COMMUNICATION

Issue Date: June 16, 2009

I have received a number of communications from external sources regarding issues involving the Universal Service Fund. These communications occurred on May 26, June 3, June 9 and June 16, 2009, via electronic mail by Commissioner Anne Boyle of Nebraska, by Global Medley Advisors and by staff. I have attached these communications to this notice for the record.

Respectfully submitted,


Robert M. Clayton III
Chairman

Dated at Jefferson City, Missouri,
on this 16th day of June 2009. -

Clayton, Robert

From: Boyle, Anne [anne.boyle@nebraska.gov]
Sent: Tuesday, June 09, 2009 4:38 PM
To: Clayton, Robert
Subject: FW: TracFone ETC application
Attachments: Trac Phone Lifeline draw.xls

Robert... There is a typo error in the information sent to you. In the 2nd to the last paragraph, estimated draw could be an estimated \$1.76 million NOT billion.

I am also attaching a USAC September 2008 - April 2009 spreadsheet FYI. It is my opinion that \$1.76 million is a very conservative estimate of potential revenues. The estimated contribution factor to the federal USF is 12.9% for the 2nd quarter. 2009... up from 11.3% for the first quarter. Among the reasons are continued diminishing

From: Boyle, Anne
Sent: Tuesday, May 26, 2009 3:16 PM
To: 'robert.clayton@psc.mo.gov'
Subject: TracFone ETC application

Hi Robert... I just read that you are going to hold a hearing on TracFone's ETC request.

Are you requiring any conditions to their request. There is some concern that it will be difficult to ascertain if the recipient is actually eligible. The question would be is how do they determine eligibility? Another might be how do you notify the FCC that customer is no longer eligible?

As you may recall, I am a member of the Universal Services Administrative Company (USAC). At the last meeting the quarterly federal rate was increased to 11.3%. One factor was that TracFone' increased significantly.

They began drawing funds in September 2008 for \$4,771. Each month there have been large increases. From September thru March, 2009, their total draw was \$19,973,261. In April, 2009, they requested

only 10 states. (TN, FL, VA, MA, GA, NY, PA, NC, MI, DE)

Ohio recently designated them with restrictions. (I will try to get a copy and send them to you.)
Nebraska
that qualifies applicants for eligibility.

6/16/2009

Ohio recently designated them with restrictions. (I will try to get a copy and send them to you.) Nebraska is probably the strictest as we cross check and/or require verification from one of the programs that qualifies applicants for eligibility.

Since TracFone is a prepaid service rather than landline or typical cellular, I am concerned that eligibility requirements may simply be self-certification. I am not suggesting that applicants would knowingly say they are eligible. However, if a member of a household knows they receive any subsidies, they may not know that the current rule for Life line is one phone to a household.

Regarding the rapid increase, at their current rate, TracFone could cause a huge increase to the FUSF. Using only present data, if they become an ETC in all 50 states, not including territories, they could draw \$1.76 billion a year. In 2007, all low-income providers received a total of \$822 million.

Let me know if you have questions. Hope to see you in Seattle.

Anne

MISSOURI -- Commission staff OKs TracFone's ETC request

Staff of the Public Service Commission threw its support behind TracFone Wireless, Inc.'s petition for designation as an eligible telecommunications carrier for the purpose of offering Lifeline and Link-Up service to qualified households.

Staff said TracFone should receive no more support reimbursement per customer than the amount a TracFone customer would have paid in the customer's respective underlying ILEC (incumbent local exchange carrier) service area.

TracFone's business model is predicated on providing affordable wireless services to consumers to whom service would be otherwise unavailable or unaffordable. If granted ETC status, the company would only increase the amount of Universal Service Fund Lifeline funding in situations where it obtains new Lifeline customers -- customers not currently enrolled in other carriers' Lifeline programs.

TracFone has received ETC designations in about 12 states. (Case TA-2009-0327)

COMPANY	STATE	DESIGNATION	SAC	1ST DISBURSEMENT	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	TOTAL
					2008	2008	2008	2008	2009	2009	2009	2009	
TRACFONE	TN	FEDERAL	299011	September-08	\$ 4,771	\$ 53,021	\$ 296,780	\$ 386,432	\$ 683,651	\$ 1,135,170	\$ 1,083,538	\$ 1,211,412	\$ 4,854,775
TRACFONE	FL	STATE	219003	October-08	\$ -	\$ 44,611	\$ 535,981	\$ 2,261,882	\$ 3,123,905	\$ 3,303,622	\$ 3,273,974	\$ 3,557,578	\$ 16,101,553
TRACFONE	VA	FEDERAL	199010	November-08	\$ -	\$ -	\$ 49,120	\$ 207,590	\$ 1,006,522	\$ 938,545	\$ 773,874	\$ 990,169	\$ 3,965,820
TRACFONE	MA	FEDERAL	119002	February-09	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 81,110	\$ 226,230	\$ 1,123,593	\$ 1,430,933
TRACFONE	GA	STATE	229010	February-09	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 61,251	\$ 224,590	\$ 1,387,604	\$ 1,673,445
TRACFONE	NY	FEDERAL	159016	March-09	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 217,091	\$ 735,956	\$ 953,047
TRACFONE	PA	FEDERAL	179011	April-09	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 154,414	\$ 154,414
TRACFONE	NC	FEDERAL	239010	April-09	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 47,632	\$ 47,632
TRACFONE	MI	STATE	319021	April-09	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 180,199	\$ 180,199
TRACFONE	DE	FEDERAL	569002	April-09	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 164	\$ 164
TRACFONE	CT	FEDERAL	139002	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRACFONE	AL	FEDERAL	259021	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRACFONE	TX	STATE	449058	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRACFONE	WI	STATE	339025	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRACFONE	WV	STATE	209013	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRACFONE	DC	FEDERAL	N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRACFONE	NH	FEDERAL	N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRACFONE	CA	PENDING	N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRACFONE	OH	PENDING	N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
					\$ 4,771	\$ 97,632	\$ 881,881	\$ 2,855,904	\$ 4,814,078	\$ 5,519,698	\$ 5,799,297	\$ 9,388,721	\$ 29,361,982

Note: A disbursement for a given month is paid the following month. For example, the April 2009 disbursement will be paid at the end of May 2009.

USF Subsidies On The Rise For Prepaid Wireless Carriers

The emergence of prepaid wireless offerings continues to destabilize the post-paid and traditional wireline voice business through discounted no contract plans. This emerging trend has contributed to the ongoing cannibalization of switched access revenue collected by landline providers. In 2Q09 alone, the total number of switched residential access lines for VZ and T fell 10% and 12% respectively.

While the surge in prepaid subscriber growth continues to erode ILEC access revenues, it has also accelerated the growth in the Universal Service Fund (USF) as demand for federal subsidies to serve low income customers is on the rise.

Some of the most successful prepaid wireless resellers in the market today are TracFone, which is owned by América Móvil (AMX) -- the largest mobile operator in Latin America -- and New Jersey based Virgin Mobile USA (VM). Both providers have grown their share of the US prepaid market by winning regulatory approval in several states to receive federal subsidies through the Lifeline program within the Universal Service Fund (USF). The Lifeline program subsidizes carriers that sell discounted voice service to low income customers in the interstate jurisdiction of up to \$10 per subscriber per month.

Yet, the growth in pre-paid wireless segment is expected to add additional pressure on the existing contribution mechanisms of the USF that are already strained under an evaporating interstate LD support base. The increased number of ETC designations for Lifeline support among prepaid wireless firms may force policymakers to adopt comprehensive USF/access reform measures sooner than expected.

Currently, there are several petitions pending before the FCC requesting additional Lifeline support and the commission may be under pressure to grant them in the interest of promoting greater competition and affordable service to low income customers. However, these petitions raises numerous policy questions over the future of the USF and its support base, which may lead the FCC to consider them in a larger comprehensive rulemaking on a national broadband strategy or on USF reform.

Increases in low income/Lifeline support expands USF fund

There are several causes for the enormous growth in the USF, one of them being the identical support rule, which permits all competitive wireline and wireless carriers to collect support at the same level as the incumbent carrier in the same market. There is general bipartisan agreement on the Hill and at the FCC that this rule is inefficient and must be eliminated but there is no consensus on how to replace it.

Apart from the identical support rule, USAC data indicates overall net demand for USF subsidies in 3Q09 is projected to increase by \$146 million over 2Q09. The recent surge in prepaid subscribers among low income users puts the Lifeline program on track to become one of the Fund's fastest growing segments.

Among all four funding mechanisms within the USF (high cost, rural health care, schools & libraries and low income) the low income fund is projected to rise by roughly \$23 million in 3Q09, which is a higher rate of growth than all the other mechanisms within the USF.

In fact, USAC projects that for 2009, the low income fund will reach \$815.53 million, roughly a 10% increase quarter over quarter - making it a substantial driver in the overall growth in the USF.

USF contribution factor reaches 12.9% as Lifeline demand increases

Unlike the high cost support mechanism, which is capped, the Lifeline program is not, so as demand for Lifeline supported customers increases so does the need to generate more revenues into the USF.

USAC 3Q09 projections for the federal USF contribution factor is expected to jump from 11.3% to 12.9%, which is the highest the factor level in the history of the fund. This increase translates into a higher assessment of end user monthly bills that is likely to catch the attention of Congress and the FCC.

TracFone's Lifeline only ETC strategy paying off

TracFone is currently the nation's largest prepaid mobile virtual network operator (MVNO) with roughly 11.8 million subscribers and offers discounted service through its SafeLink brand that is marketed primarily to low income customers and is subsidized by the federal Lifeline program.

América Móvil's success in the US prepaid resale market through this subsidiary is a testament to the company's shrewd command of the US regulatory system. TracFone's market entry strategy is very similar to those employed by wireless ETC carriers, which in the early days won support state by state to receive high cost USF subsidies. We expect the pace for Lifeline only designations to pick up in the wake of TracFone's success.

The federal statute requires that only facilities based carriers are eligible to receive USF support, which would preclude resellers. However, TracFone petitioned the FCC in 2005 and won an exemption from this facilities based requirement. Since then the precedent has been set for other wireless resellers like Virgin Mobile to receive similar treatment.

The FCC's TracFone order also imposed a requirement to obtain Public Safety Answering Point (PSAPS) certification in their service territory to ensure that customers can receive basic and enhanced 911 service. In response to complaints from TracFone over the difficulty in obtaining PSAP certification, the commission later modified this requirement by setting a 90-day shot clock for PSAPS to certify TracFone's ability to offer 911 services. If the PSAP fails to certify within the 90-day period, TracFone is permitted to self certify their compliance directly with the FCC.

ETC designations in 10 states granted, OH and CA are pending

Since September 2008, TracFone is likely to receive on a cumulative basis roughly \$29 million in federal Lifeline subsidies to serve low income customers across in 10 states: Florida, Georgia, Massachusetts, New York, Tennessee, Virginia, Pennsylvania, Michigan, North Carolina and Delaware. TracFone's largest subscriber base is currently in Florida and is projected to receive close to \$9.1 million in Lifeline support for that state alone in 3Q09.

TracFone has also been designated to receive Lifeline support in CT, AL, TX, NH, WV, WI and the District of Columbia but has not yet begun collecting Lifeline support in these states.

In addition, TracFone has ETC petitions to collect Lifeline support in California and Ohio, both of which have high levels of Lifeline penetration. According to the FCC's most recent USF Joint Board Monitoring Report, California had the highest number of Lifeline customers at roughly 2.8 million as of 2007. It also collected approximately \$260 million in federal Lifeline support, which is also the highest amount of any state nationwide.

It is too early to predict how the California Commission will act on TracFone's bid. However, if the commission decides to favor TracFone's application, the company's customer base would expand significantly to include the roughly 2.8 million low income qualified customers throughout the state.

TracFone's pending petition to increase Lifeline support nationwide

The \$10 per subscriber per month Lifeline subsidy consists of a \$3.50 to \$6.50 charge (Tier I), which mirrors the federal subscriber line charge (SLC) charged by the ILEC in that market, plus an additional \$1.75 per subscriber charge (Tier II) and another \$1.75 (Tier III) if the state commission provides support for the low-income subscriber as well which they often do.

If the ILEC doesn't charge the full SLC to its customers in certain markets which is often the case, it limits the amount the Lifeline carrier can collect for Tier 1 support in that service area. ILECs are not required to charge the full \$6.50 SLC and in states like California and others, the SLC is close to \$4.50.

TracFone has a petition for rulemaking pending before the FCC to raise the Tier I Lifeline support to the maximum allowable amount of \$6.50 regardless of what the ILEC SLC rate and pass the added benefit to the end user.

If approved, this proposal would increase the amount of federal Lifeline support TracFone, Virgin Mobile and others will receive in markets they have been designated as an ETC. So far, there is no opposition filed in the docket against TracFone's petition except for by the mid-size carrier association, ITTA.

TracFone sets precedent for more resellers to seek Lifeline only ETC status

Virgin Mobile, with roughly 5.2 million customers received ETC designation from the FCC in March to collect federal USF Lifeline support in NY, TN, VA, NC. Like the TracFone ETC designation order, Virgin Mobile is required to comply with modified state and federal 911/E911 obligations along with a compliance plan that prohibits discounts to be given to more than one customer per household.

Other carriers are lining up to receive similar treatment as TracFone and Virgin Mobile. U.S. based Smith Bagley, a privately held facilities based ETC that serves tribal lands, recently petitioned the FCC to increase their Tier VI Lifeline support level, currently \$25 a month (designated for Tribal Lands) to \$30 a month.

Wireless reseller i-wireless LLC has also recently petitioned the FCC for similar relief from the facilities based requirement under the FCC's ETC rules that was granted to TracFone.

Headstart telecom, a prepaid reseller filed a similar forbearance petition with the FCC earlier this month seeking relief from the FCC's ETC rules.

These petitions seek to duplicate the precedent set by TracFone. Yet, as multiple providers win ETC designations for Lifeline funds in more large, populated states, the USF contribution base funded mainly by wireline revenues could erode even further. State and federal regulators, already troubled by the growth in the USF, may be forced to address these trends in the near term, particularly if the goal is to include broadband as a supported service.

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Clayton, Robert

From: Dietrich, Natelle*
Sent: Tuesday, June 16, 2009 8:22 AM
To: Commissioners - PSC; Advisory Staff - PSC
Cc: VanEschen, John; Dale, Cully
Subject: Federal USF Contribution Factor at all-time high

PROPOSED USF CONTRIBUTION FACTOR REACHES ALL-TIME HIGH

The FCC's Office of Managing Director announced that the proposed Universal Service Fund contribution factor for the third quarter of 2009 will be 12.9% - its highest rate ever. The increase from the current 11.3% rate will take place in 14 days unless the Commission chooses to intervene. Several industry members have registered their concern about the increase, and AT&T, Inc., reiterated its complaints. "The universal service fund is in a death spiral, driven by growing demands on the fund, the decline of the wireline model and consumer migration to other platforms and services," said Robert Quinn, AT&T's senior vice president-federal regulatory. "These factors cause the government to ask for more money from a shrinking base of phone customers to support the goals of universal service. This vicious cycle leads to higher and higher USF fees." It urged the FCC to move on USF reform, starting with the contribution side of the issue.