

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

In the Matter of the Provision of Wireless)
Lifeline Service as an Eligible)
Telecommunications Carrier by TracFone)
Wireless, Inc. d/b/a SafeLink Wireless)

File No. TO-2014-0020

STIPULATION AND AGREEMENT

COME NOW the Staff of the Missouri Public Service Commission (“Staff”) and TracFone Wireless, Inc. d/b/a SafeLink Wireless (“TracFone” or “the Company”), and respectfully state to the Missouri Public Service Commission (“Commission”) that, as a result of negotiations, the Staff and TracFone have reached the stipulations and agreements contained herein:

STIPULATIONS

1. TracFone Wireless, Inc. d/b/a SafeLink Wireless is a Delaware corporation. Its principal offices are at 9700 N.W. 112th Avenue, Miami, FL. 33178. Cintex registered to do business in the State of Missouri on October 14, 2009. At the same time, TracFone registered the fictitious name “Safelink.” At the time of its applications for designation as an eligible telecommunications carrier (“ETC”), TracFone made no mention of the fictitious name.

2. TracFone first applied to be an ETC in Missouri on March 9, 2009, prior to the registration discussed above. On April 27, 2009, TracFone filed an amended application, in which it made Missouri-specific commitments. Again, it failed to mention the Safelink fictitious name. It filed a Second Amended Petition on April 29, 2009.

3. On May 20, the Staff filed a Recommendation that TracFone's Application be granted, on several listed conditions. On June 12, 2009, TracFone responded to the Staff Recommendation, asking for waiver of certain of the conditions, which the Staff opposed. On August 26, 2009, the Commission granted the Application, on all of the requested conditions.

4. In 2011, the Staff noticed that TracFone customer application forms were under the name "Safelink," which was not the name designated by the Commission. In October 2011, and possibly before, the Staff (John VanEschen) contacted TracFone (Stephen Athanson) about the name disparity. TracFone requested the additional fictitious name from the Commission on December 11, 2012, which the Commission recognized on January 2, 2013.

5. The Staff recently conducted a review of 955 TracFone customer applications submitted by the Company for a specific time period, pursuant to the Staff's request. Of those reviewed applications:

a. Two hundred seventy-nine (279) of the applications are the wrong form. Forty-eight (48) of those forms are from before September 2012 and two hundred thirty-one (231) are from September and October 2012. TracFone informed the Staff it was having difficulties with programming, which is why the wrong form was used; however, the large majority (approximately 95%) of the incorrect forms are handwritten, which removes the "programming" difficulties; there appears to be no reason not to have used the correct form.

b. Fifty-one (51) of the applications are the correct form, but the "company use only" section has been removed entirely from the form.

c. Thirty (30) applications are accompanied by a form letter from Safelink and Home State Health Plan (see attached). The letter says in red and bolded print, "Please

sign and date below and submit this letter as your **proof of eligibility** along with your Lifeline Application. Home State Health will confirm you are eligible.”¹ None of the letters are signed, and this method of determining proof of eligibility does not comport with either the conditions under which TracFone was granted ETC designation or with 4 CSR 240-31.050.

d. Two applications lack a customer signature.

e. There are many applications where the customer did not provide a contact number, mailing address, and/or DCN number.² The Staff cannot tell whether the customer is truly eligible, and failure to require that the approved form be properly filled out does not comport with either the conditions under which TracFone was granted ETC designation.

f. None of the six hundred (600) applications that appear to use the Board-approved form have the “company use only” section completed. After the Staff made its concerns on this issue known to TracFone, on December 20, 2012, it submitted a new electronic copy with verification files attached to the application files. These fall within three types of company records of eligibility verification:

(1) The “To Whom It May Concern” form, which does not have a signature or other form of verifiable company attestation.

(2) The “White List” form, which does not contain a company signature or other form of verifiable company attestation, fails to explain who or what

¹ The Company has contracts with certain HMOs that serve only Medicaid patients. The Company has access to the HMO databases, which it can use to confirm eligibility for customers who use those HMOs.

² DCN numbers are assigned to recipients of benefits from the programs that establish eligibility for Lifeline service. Although the Company may have no way to verify a DCN number’s authenticity in some cases, it is an important tool for the Staff to use when reviewing forms.

“CNTN” is or what is meant by “White List” or “white list database” and which “certifies” the customer is “pre-qualified” for Lifeline service.³

(3) The “recorded verbal” verification, which also include one of the forms of verification above, but are not clear whether those the verification forms were completed based on the verbal confirmation, or whether a TracFone representative also saw verification documentation. Either way, the questions on the recording are given rather rapidly, and many items are lumped together for the person to confirm under penalty of perjury.

None of these forms or methods of verification appear to comport with either the conditions under which TracFone was granted ETC designation or with 4 CSR 240-31.050.

g. TracFone improperly used disabled criteria (which apply only to the Missouri Universal Service Fund (“USF”)) as eligibility criteria for reimbursement from the federal USF. In October 2011, the Staff questioned TracFone about using the disabled criteria as qualifying criteria. In a December 19, 2012 letter to the Staff, TracFone stated it had “returned all money received for the ineligible customers in 2011 as part of [its] Form 497 Revisions in July of this year...approximately \$83,000.” TracFone further noted that approximately \$37,000 received in 2010 and approximately \$9,000 received in 2012 had not been returned, stating that those amounts will be returned in February 2013. The Staff has reviewed these amounts but cannot verify them without additional information. Assuming the amounts are correct, it took at least nine months for TracFone to return the first amount, and it was at least 15 months for the full amount to be returned.

³ This is the same issue described above in footnote 1.

6. TracFone, upon being made aware of these deficiencies, has expended every effort to eradicate them.

Agreement

7. The Company agrees to notify Staff within 30 days of any matter brought by any state or federal regulatory or law enforcement agency against the ETC, any person or entity that currently holds, directly or indirectly, more than a 10% ownership interest in, or is a manager, officer or director of the ETC, or any affiliated company (defined as any company under common management ownership or control or that, by contract or other agreement, performs any of the functions necessary to the ETC's Lifeline Service) that involves any aspect of the provision of Lifeline Service or any aspect involving the ETC's use of state or federal USF, or any non-frivolous matter brought in state or federal courts alleging claims for involving fraud, deceit, perjury, stealing or the omission or misstatement of material fact in connection with a commercial transaction. Such matters include formal or informal notices of investigation, indictment, the filing of a complaint, a civil lawsuit, revocation or suspension proceeding, action for civil penalties or damages of at least \$250,000, or criminal charges. Such details include, but are not limited to, copies of complaints or other such pleadings and the filed responses thereto, as well as any orders, decisions or other determinations of culpability, including those that exonerate the subject of any wrongdoing.

8. The Company agrees to notify the Staff of matters as described in paragraph 7 beginning immediately after the effective date of the Commission's order approving the joint stipulation between the Company and Staff that resolves this case. Should substantially similar commitments as the Company makes in paragraph 6 not be imposed on all ETCs in the State of Missouri within one-year from the effective date of that order by a duly promulgated

Commission rule, the Company may ask the Commission to issue an order suspending the commitments the Company makes in paragraph 6 until such time as substantially similar commitments are imposed on all ETCs in the State of Missouri. If the Company requests a stay following the one-year timeframe, the Staff may oppose or support the granting of that request.

9. The Company will not offer or provide Lifeline service in Missouri under any name other than its Commission-approved ETC designated name.

10. The Company agrees to ensure all applications are complete.

11. The Company agrees to properly verify all applications, including obtaining proof of documentation.

12. The Company agrees to only document verifications using MoUSF Board approved attestation language (even if it is on a separate piece of paper).

13. The Company agrees it will not use exclusively verbal confirmation of personal information for initial applications.

14. The Company agrees that if the Company is audited by USAC regarding Missouri, The Company will provide to Staff its responses to the audit, as well as USAC's findings.

15. The Company agrees that it will comply with all Commission rules, as amended, concerning the provision of Lifeline service in Missouri, as well as any properly promulgated rules of the FCC concerning Universal Service Funding for low-income subscribers as well as any applicable state or federal law. The Staff may conduct follow-up reviews of the Company's operations to ensure that the Company has complied with the provision of this Stipulation and Agreement.

16. The Company agrees to submit all outstanding reimbursements related to customers that were qualified under the disabled program to USAC by March 1, 2013, and will immediately provide proof of such reimbursement to Staff.

17. The Company certifies that all funds have been reimbursed for those customers that were qualified under the disabled program to USAC.

18. The Company agrees to never seek future reimbursement from USAC for those customers that were identified as qualifying under the Disabled Program unless and until such customers show proof of eligibility under a Lifeline qualifying program.

19. The Company will pay \$18,000 to the School Fund.

Respectfully submitted,



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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 16th day of July, 2013.