

State of Florida



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Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: May 1, 2008
TO: Ann Cole, Commission Clerk - PSC, Office of Commission Clerk
FROM: Cindy B. Miller, Senior Attorney, Office of the General Counsel *CBM*
RE: Docket No. 070586-TP - Application for Designation as an ETC by TracFone
Wireless

Please place this synopsis of the FCC Order in the docket file.

CM
Attachment

DOCUMENT NUMBER-DATE

03531 MAY-1 8

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: April 30, 2008

TO: Matthew M. Carter II, Chairman
Lisa Polak Edgar, Commissioner
Katrina J. McMurrin, Commissioner
Nancy Argenziano, Commissioner
Nathan A. Skop, Commissioner

FROM: Office of the General Counsel (Miller, Teitzman) *cm*
Division of Competitive Markets & Enforcement (Salak, Casey, Beard) *AT* *SMC* *CSB*

RE: FCC Order on TracFone Wireless (FCC 08-100)

On April 11, 2008, the Federal Communication Commission (FCC) designated TracFone wireless as an eligible telecommunications carrier (ETC), eligible only to receive universal service Lifeline support in its licensed service areas in New York, Virginia, Connecticut, Massachusetts, Alabama, North Carolina, Tennessee, Delaware, New Hampshire, Pennsylvania and the District of Columbia. The FCC dismissed without prejudice TracFone's petition for ETC designation in Florida.

Earlier, in 2005, the FCC had conditionally granted TracFone's petition for forbearance from a facilities requirement in Sec. 214(e)(1)(A) of the Communications Act of 1934. That requirement related to an ETC offering service using its own facilities or a combination of its own facilities and resale of another carrier service. Now, the FCC concludes TracFone has satisfied the remaining criteria to be designated as an ETC eligible only for Lifeline support (limited ETC).

TracFone is a non-facilities-based commercial mobile radio service (CMRS) provider that offers prepaid wireless telecommunications service. The FCC states that TracFone has demonstrated that, except for the FPSC, the relevant state commissions lack authority to perform the requested ETC designation. In April of this year, the FPSC found that, due to a change in Florida state law, it "now ha[s] jurisdiction to consider CMRS applications for ETC designation." In light of this development, and because section 214(e)(2) of the Act gives state commissions the primary responsibility for performing ETC designation, the FCC dismissed TracFone's Florida application. However, the FCC states, "Should the Florida Public Service Commission consider granting a petition by TracFone for designation as a limited ETC in Florida, we would encourage it to require TracFone to adhere to the compliance plan we approve herein." TracFone's FCC-approved compliance plan requires the following:

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- Certification from each PSAP (Public Safety Answering Point) where TracFone provides Lifeline service, confirming that TracFone provides its customers with access to basic and E911 service;
- E911 compliant handsets must be provided to TracFone's new customers and TracFone must replace any non-compliant handsets for its existing customers at no charge;
- Self-certification of TracFone customers under penalty of perjury once service has been activated and also annual certification that the customer is the head of household and is only receiving Lifeline discounts from TracFone;
- Tracking of Lifeline customer's primary residential address and certification that there is only one customer receiving Lifeline at each residential address; and
- TracFone must deal directly with its customer to certify and verify Lifeline eligibility.

In its public interest analysis, the FCC finds that TracFone's universal service Lifeline offering will provide a variety of benefits to Lifeline-eligible consumers including increased consumer choice, high quality service offerings, and mobility. In addition, the prepaid feature, which essentially functions as a toll control feature, may be an attractive alternative to Lifeline-eligible consumers who are concerned about usage charges or long-term contracts.

The Pennsylvania Office of Consumer Advocate asserted that TracFone is not complying with Pennsylvania's Public Safety Emergency Telephone Act, which requires that wireless providers collect a wireless E-911 surcharge and remit the money to Pennsylvania's Wireless E-911 Emergency Fund. The FCC thus conditioned TracFone's designation as an ETC that it is in full compliance with any applicable 911/E911 obligations.

The FCC refers to its earlier forbearance requirements on TracFone relating to 911 and E911 actions. TracFone must obtain certification from each PSAP (Public Safety Answering Point) where it will provide Lifeline service. Moreover, TracFone must continue to provide access to "basic and enhanced 911 service." The FCC approved the compliance plan as discussed in its Order.

cc:	Mary Andrews Bane	Mary Anne Helton	Lisa Harvey
	Michael Cooke	Samantha Cibula	Rick Moses
	Charles H. Hill	Bob Casey	Tim Devlin
	William Garner	Dan Hoppe	Cindy Muir
	Roberta Bass	Rhonda Hicks	Todd Brown
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	Bridget Grimsley	Sally Simmons	