

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF TRACFONE WIRELESS, INC.)	
FOR DESIGNATION AS AN ELIGIBLE)	
TELECOMMUNICATIONS CARRIER IN THE)	CASE NO.
COMMONWEALTH OF KENTUCKY FOR THE)	2009-00100
LIMITED PURPOSE OF OFFERING LIFELINE)	
AND LINK UP SERVICE TO QUALIFIED)	
HOUSEHOLDS)	

O R D E R

On October 30, 2009, TracFone Wireless, Inc. (“TracFone”) filed a motion to amend its petition for designation as an Eligible Telecommunications Carrier (“ETC”). In its original petition filed on March 5, 2009, TracFone states that it is a wireless reseller providing service through a “virtual network” consisting of services obtained from numerous licensed operators of wireless networks.¹ TracFone had previously requested that it receive statewide ETC certification, as it obtains underlying services from Alltel, AT&T Mobility, Bluegrass Cellular, T-Mobile and Verizon Wireless.² TracFone has provided resold wireless service in Kentucky for ten years but is now seeking ETC designation (low-income program only). In the motion to amend its petition, Tracfone requests ETC designation in Kentucky only in the areas served by

¹ March 5, 2009 Petition at 2, 5. In 2005, the Federal Communications Commission granted TracFone’s request for forbearance from the facilities-based service requirement for ETC designations. See Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. 214(e)(1)(A) and 47 C.F.R. 54.201(i), 20 FCC Rcd 15095 (released September 8, 2005).

² Id. at 2.

AT&T Mobility and T-Mobile. TracFone also seeks to amend the petition to request ETC designation in the service area of Verizon Wireless beginning in the second quarter of 2010.

Generally, the Commission has granted ETC certifications for service areas of the underlying landline incumbent carriers. TracFone's request to receive certification based upon the coverage areas for certain wireless carriers presents an issue of first impression for this Commission. No other Kentucky ETC has previously made such a request. TracFone's petition is particularly unique because, in requesting ETC designation based upon the service areas of AT&T Mobility, T-Mobile and Verizon Wireless, the service areas of rural landline incumbents will be automatically implicated. This Commission has the statutory authority to implement the provisions of 47 U.S.C. § 214 of the 1996 Telecom Act to designate ETCs for the purposes of receiving federal universal service funds³ and to establish the service area for the purpose of determining universal service obligations and support mechanisms. The "service area" is the geographic area established by a state commission or the Federal Communications Commission ("FCC"), where the ETC is required to comply with universal service obligations and is eligible to receive universal service support. In the case of a service area for a rural landline telephone company, the term "service area" is defined as the company's "study area."⁴ To serve an area already served by a rural telephone

³ TracFone has stated that it will not seek Lifeline support from the Kentucky Universal Service Fund. See TracFone's First Data Request Response at Response 9, filed May 15, 2009.

⁴ 47 C.F.R. § 54.207(b) and 47 U.S.C. § 214(e)(5).

company, a state commission must find that the designation of the ETC applicant must serve the public interest.

In the case of an area served by a rural telephone company, the “study area” is the rural telephone company’s service area unless and until the FCC and the state commission establish a different definition of “study area” for that company in accordance with 47 C.F.R. § 54.207(c). The record, as it stands today, is not sufficient to enable the Commission to reach a final determination on questions regarding the rural telephone service areas of the underlying wireless carriers for which TracFone seeks ETC designation. Prior to rendering a decision on the motion to amend the petition, the Commission finds that TracFone will be required to submit additional information to enable the Commission to determine the exact service areas for which it proposes to provide service.

Therefore, by this Order, the Commission will issue another data request to TracFone for the purpose of receiving information relevant to those issues.

IT IS THEREFORE ORDERED that:

1. TracFone shall respond to the Commission’s data request, provided in the Appendix to this Order, no later than December 30, 2009.

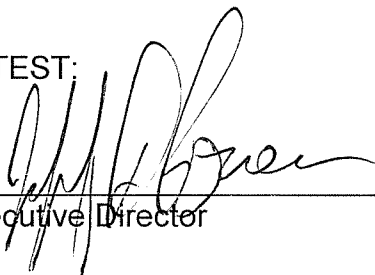
2. a. TracFone, pursuant to 807 KAR 5:001, is to file with the Commission the original and five copies of the following information, with a copy to all parties of record. The information requested herein is due on or before December 30, 2009. Responses to requests for information shall be appropriately bound, tabbed and indexed. Each response shall include the name of the witness responsible for responding to the questions related to the information provided.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. TracFone shall make timely amendment to any prior response if the utility obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect. For any request to which TracFone fails or refuses to furnish all or part of the requested information, TracFone shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

d. Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations.

By the Commission

ATTEST:

Executive Director

ENTERED
NOV 30 2009 *M*
KENTUCKY PUBLIC
SERVICE COMMISSION

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2009-00100 DATED **NOV 30 2009**

1. a. Provide a spreadsheet outlining the names of the incumbent local exchange carriers and the exchanges of those incumbent carriers for which TracFone seeks to receive ETC certification.
 - b. Provide a separate spreadsheet identifying which exchanges are associated with the service territories for AT&T Mobility, T-Mobile and Verizon Wireless.
2. Identify the study areas of any rural telephone companies which TracFone is planning to partially serve after receiving ETC certification.
3. Has TracFone received approval from the Federal Communications Commission ("FCC") to disaggregate rural service areas in Kentucky?
 - a. If yes, identify the rural service area exchanges for which TracFone received FCC disaggregation approval.
 - b. If yes, provide the citation to the order(s) outlining the approval(s).
 - c. If TracFone has received FCC disaggregation approval for rural service area exchanges within other states, provide the citations to those FCC orders outlining the approvals.
 - d. If other states have redefined the study areas of rural telephone companies specifically due to TracFone's ETC petitions within those states, provide copies of the orders by those state commissions wherein those determinations were rendered.

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