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May 14, 2009

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PUBLIC SERVICE
COMMISSION

VIA OVERNIGHT DELIVERY

Mr. Jeffrey Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: Petition of TracFone Wireless, Inc. for Designation as an Eligible
Telecommunications Carrier in the State of Kentucky for the Limited Purpose of
Offering Lifeline and Link Up Service to Qualified Households
Case No. 2009-00100

Dear Mr. Derouen:

Please find enclosed for filing with the Commission in the above-referenced case an original and four (4) copies of the responses of TracFone Wireless, Inc. to the Commission Staff's Data Request, dated April 23, 2009 and a Petition for Waiver. An additional copy of each document is included to be date-stamped and returned in the enclosed envelope.

Please contact me if you have any questions about this submission.

Sincerely,



Debra McGuire Mercer

cc: Tiffany J. Bowman

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 COMMONWEALTH OF)
 KENTUCKY FOR THE LIMITED)
 PURPOSE OF OFFERING LIFELINE)
 AND LINK UP SERVICE TO)
 QUALIFIED HOUSEHOLDS)

CASE NO.
2009-00100

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PUBLIC SERVICE
COMMISSION

**RESPONSES TO COMMISSION STAFF'S FIRST DATA REQUEST
TO TRACFONE WIRELESS, INC.
DATED APRIL 23, 2009**

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 COMMONWEALTH OF)
KENTUCKY FOR THE LIMITED)
PURPOSE OF OFFERING LIFELINE)
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QUALIFIED HOUSEHOLDS)

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CERTIFICATE

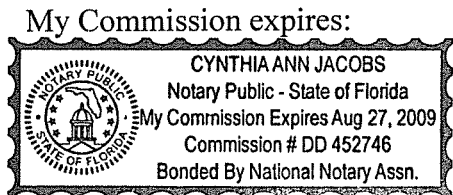
STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Jose Fuentes, being duly sworn, states that he has supervised the preparation of the responses of TracFone Wireless, Inc. to the Public Service Commission Staff's Data Request in the above-referenced case, dated April 23, 2009, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.

[Handwritten signature of Jose Fuentes]

Subscribed and sworn before me on this 13th day of May, 2009.

[Handwritten signature of Cynthia Ann Jacobs]
Notary Public State of Florida
Cynthia Ann Jacobs



**TRACFONE WIRELESS, INC.
PSC CASE NO. 2009-00100
FIRST DATA REQUEST RESPONSE**

COMMISSION STAFF'S FIRST DATA REQUEST DATED APRIL 23, 2009

REQUEST 1

RESPONSIBLE PERSON: JOSE FUENTES

COMPANY: TRACFONE WIRELESS, INC.

Request 1

Kentucky currently requires that all Eligible Telecommunications Carriers (“ETCs”) perform an audit of all customers receiving Lifeline benefits. Each customer must provide proof of eligibility. Does TracFone agree to audit all Lifeline customers each year rather than conduct a yearly audit of only a sample of customers?

Response 1

TracFone is aware of the audit requirement set forth in An Inquiry into Universal Service and Funding Issues, Order, Administrative Case No. 360 (Kentucky Pub. Serv. Comm’n: May 24, 2007). TracFone is filing a Petition for Waiver of this requirement concurrent with these responses. As explained in the Petition, TracFone’s compliance with the annual verification requirement is not necessary to minimize fraud, would be unduly burdensome, and would impede TracFone’s ability to provide low income Kentucky households with the same Lifeline benefits which it provides its Lifeline customers in other states where it has been designated as an ETC.

**TRACFONE WIRELESS, INC.
PSC CASE NO. 2009-00100
FIRST DATA REQUEST RESPONSE**

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REQUEST 2

RESPONSIBLE PERSON: JOSE FUENTES

COMPANY: TRACFONE WIRELESS, INC.

Request 2

Has TracFone begun the certification process for Public Safety Answering Points in Kentucky?
If yes, when did the process begin and when will it conclude?

Response 2

TracFone has not begun the certification process in Kentucky.

**TRACFONE WIRELESS, INC.
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REQUEST 3

RESPONSIBLE PERSON: JOSE FUENTES

COMPANY: TRACFONE WIRELESS, INC.

Request 3

All of the incumbent local exchange carriers ("ILECs") in Kentucky offer unlimited local calls. Provide an explanation as to how TracFone will offer a local usage plan comparable to the plans offered by the ILECs in Kentucky. Provide demonstrative evidence of such TracFone plans in other states where TracFone has received ETC designations.

Response 3

The Federal Communications Commission's rules do not require ETCs offering Lifeline service to offer plans identical to those of ILECs. Rather, an ETC is required to offer local usage plans "comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation." (47 C.F.R. § 54.202(a)(4)) Wireless and wireline services, though increasingly substitutable for each other, are different from each other and they are priced differently. Indeed, the Missouri Public Service Commission explained, when it issued an order designating U.S. Cellular as an ETC:

As the Commission has previously found, many ILECs offer unlimited local calling, but only to a few exchanges. In contrast, U.S. Cellular offers a limited number of minutes of use for a fixed fee but allows a customer to make calls to locations in most of the country. Some customers will benefit from the plan offered by the ILECs while others will benefit from the plan offered by U.S. Cellular. The customers can choose for themselves which plan they prefer. The Commission's rule does not require a wireless provider to become a wireline provider and it does not require U.S. Cellular to offer the same local usage calling plan as that offered by the ILECs. The rule requires only that their local usage calling plans be comparable. The Commission finds that the local usage plan

offered by U.S. Cellular is comparable to the local usage plan offered by the ILECs and complies with the Commission's regulation.¹

Like U.S. Cellular's Lifeline plan, TracFone's Lifeline plan offers qualified customers a specified number of minutes of use to place and receive calls throughout the country. However, TracFone's Lifeline offerings will go beyond those of other wireless providers, such as U.S. Cellular, as well as those of ILECs in a very important respect: TracFone's Lifeline customers will receive as part of Lifeline service specified amounts of free wireless service. That is, Lifeline customers will be able to use TracFone's service to initiate and receive specified amounts of wireless calling -- local and long distance -- with no charge to the customers. As such, TracFone's local usage plan is comparable to the local usage plan offered by the ILECs. Once TracFone's Lifeline service becomes available in Kentucky, the state's low income Lifeline-eligible consumers will have a choice and will be able to select the Lifeline option whose service best meets their needs.

TracFone's Lifeline plan, which is marketed under the trade name SafeLink Wireless, is essentially the same in all states in which it has been designated as an ETC. The terms and conditions of TracFone's SafeLink Wireless Lifeline Service are attached as Exhibit 1. In each state, TracFone Lifeline customers are provided with a specified number of minutes of use each month. The amount of free minutes of airtime to be provided is based on the amount of federal Universal Service Fund low income support available pursuant to the rules of the FCC. The states in which TracFone provides Lifeline service and the number of free monthly minutes provided to each Lifeline customer in those states are as follows:

¹ In the Matter of the Application of USCOC of Greater Missouri, LLC for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996, Report and Order, Case No. TO-2005-0384 (Missouri Pub. Serv. Comm'n: May 3, 2007).

Delaware	41 minutes
Florida	68 minutes
Georgia	68 minutes
Massachusetts	80 minutes
Michigan	68 minutes
New York	68 minutes
North Carolina	68 minutes
Pennsylvania	42 minutes
Tennessee	68 minutes
Virginia	68 minutes

**TRACFONE WIRELESS, INC.
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REQUEST 4

RESPONSIBLE PERSON: JOSE FUENTES

COMPANY: TRACFONE WIRELESS, INC.

Request 4

Explain the process by which TracFone will verify the eligibility of Lifeline customers. Provide details about how and where Lifeline subscribers will be able to initiate service.

Response 4

Marketing material for TracFone's SafeLink Wireless Lifeline assistance will direct consumers to toll-free telephone numbers and to TracFone's SafeLink Wireless Internet website (www.safelinkwireless.com). The SafeLink Wireless website contains detailed information about the Lifeline program and enrollment forms. Consumers may either complete the enrollment form "on-line" or print out the form, complete it, and fax it to a toll-free fax number provided by TracFone. Those consumers who prefer to submit the enrollment materials to TracFone via U.S. mail will be allowed to do so. However, that will delay completion of the enrollment process. Processing of consumers' applications will be performed by TracFone personnel under the immediate supervision of managers specially trained in the Lifeline program. TracFone will deliver handsets to Lifeline customers at no cost upon their enrollment in the program with the first month's free usage allotment already activated.

TracFone maintains a database that lists the name and address of Lifeline customers. When TracFone receives a Lifeline application, TracFone reviews its database to ensure that the applicant or someone residing at the applicant's address is not already receiving Lifeline benefits

from TracFone. If TracFone's review indicates that an applicant or someone residing in the applicant's household is already receiving Lifeline benefits from TracFone, the application will be denied.

**TRACFONE WIRELESS, INC.
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REQUEST 5

RESPONSIBLE PERSON: JOSE FUENTES

COMPANY: TRACFONE WIRELESS, INC.

Request 5

Refer to page 23 of the TracFone petition. What security measures will TracFone put into place to ensure that only Lifeline customers will be able to purchase usage cards from retail outlets?

Response 5

If a Lifeline customer desires to purchase minutes in addition to the free minutes received each month, the customer may purchase "SafeLink Wireless" cards from retail outlets. The back of the cards state "For use only with SafeLink Wireless cell phones." The SafeLink Wireless card includes instructions as to how to load minutes into the phone. First, the card holder is instructed to scratch off a strip at the bottom of the card to reveal a 15 digit PIN number. Second, the card holder will be directed to go to "Add Airtime" or "Redeem Airtime" under the Prepaid Menu on his or her handset and enter the PIN number to add the minutes. Alternatively, a card holder can add the minutes to his or her handset by providing the PIN number via the Internet at www.SafeLinkWireless.com or by calling 1-800-977-3768. The PIN number will only allow minutes to be added to a TracFone handset associated with a Lifeline customer.

**TRACFONE WIRELESS, INC.
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REQUEST 6

RESPONSIBLE PERSON: JOSE FUENTES

COMPANY: TRACFONE WIRELESS, INC.

Request 6

Refer to page 24 of the TracFone petition. The petition states the Lifeline telephone accounts will remain active for one year even if no additional usage is purchased.

Request 6a

How will TracFone monitor the accounts of Lifeline customers to ensure that the customers are receiving the benefit of the service? For example, if a customer stops using his or her Lifeline TracFone after six months, or if the wireless device is damaged so that it cannot be used, will TracFone continue to credit the customer with minutes to his or her account?

Response 6a

TracFone has implemented a churn policy that covers inactive handsets that are enrolled to receive Lifeline benefits. The policy reads as follows:

6.3.2 Non-Usage Deactivation: If SafeLink customers exceed 2 months without any Usage (as previously defined) independent of the Service End Date, they will be deactivated and given up to a 30-day grace period to reactivate.

Usage is defined as: "Transactions including but not limited to, Making Calls, Receiving Calls, Sending Text Messages, Receiving Text Messages, Downloading Data Content or Adding Airtime." TracFone has the ability to monitor call activity through call detail record reporting platforms.

During the 30 day grace period, if the customer tries to use the handset the call is intercepted and routed to an interactive voice response (IVR) system that advises the customer

that the handset is not active and that if the call is an emergency they should hang up and dial 911 from the handset. The IVR also prompts the customer to talk to a customer service agent if they wish to change their status so that they are an active Lifeline customer. If a customer does not use the handset during the 30 day grace period, any subsequent attempts to place a call from the handset will not be intercepted by IVR and the handset may only be used to dial 911.

Request 6b

Under the scenario described above, will TracFone continue to receive Universal Service Fund disbursements for the provision of service even if the service is not being used?

Response 6b

Once a customer has been deactivated after 60 days of non-usage, TracFone will not seek further reimbursement from the federal Universal Service Fund for that customer. Customers who have been deactivated following 60 days of their of non-usage non-usage may re-enroll in the Lifeline program in the future. Assuming that such customers are determined remain qualified for Lifeline benefits, they will be re-enrolled in the program and will be provided with the monthly allotments of minutes following reenrollment. TracFone will resume seeking reimbursement from the federal Universal Service Fund following such customers' re-enrollment.

**TRACFONE WIRELESS, INC.
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REQUEST 7

RESPONSIBLE PERSON: JOSE FUENTES

COMPANY: TRACFONE WIRELESS, INC.

Request 7

The Kentucky Universal Service Fund for Lifeline support is maintained by a fee of eight cents per access line per month from every wireline and wireless subscriber, which is collected by carriers. TracFone has not previously collected those funds from its Kentucky subscribers.

Request 7a

Upon receiving ETC designation, will TracFone begin contributing to the fund?

Response 7a

The Commission Order establishing the means for funding the low-income portion of the Kentucky Universal Service Fund provides: "For services rendered on and after January 1, 1999, all ILECs, CLECs, and wireless providers shall place on all customers' bills a charge of five cents per month per bill." An Inquiry into Universal Service and Funding Issues, Order, Administrative Case No. 360 (Kentucky Pub. Serv. Comm'n: November 16, 1998), at 4. A subsequent order increased the charge to eight cents. TracFone, as a prepaid wireless provider, does not issue bills. The fee is imposed on monthly billed subscribers, not on carriers. Therefore, because TracFone is not obligated to collect the fee from its subscribers, it has no obligation to contribute to the fund.

Request 7b

If so, explain how TracFone will implement the collection process and provide a detailed explanation on the methodology to be used to equate prepaid minutes to a month of service.

Response 7b

Not applicable.

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REQUEST 8

RESPONSIBLE PERSON: JOSE FUENTES

COMPANY: TRACFONE WIRELESS, INC.

Request 8

Beginning June 1, 2009, the Commission will require wireless carriers to support the Kentucky Telecommunications Relay Service and the Kentucky Telecommunications Access Program. Each fund is supported by a fee of two cents per access line per month from every wireline and wireless subscriber, which is collected by the carriers.

Request 8a

Upon receiving ETC designation, will TracFone begin contributing to the funds?

Response 8a

The Commission's Order extending the collection of fees to support the Kentucky Telecommunications Relay Service fund ("TRS Fund") and the Kentucky Telecommunications Access Program fund ("TAP Fund") to wireless telecommunications providers requires monthly collection of the fees for these funds from billed retail customers. As noted in the Order, "wireless carriers, in the same manner as ILECs and CLECs, shall be required to outline the combined fees on each retail customer's bill as a separate line item denoted as "Kentucky TRS/TAP Fee" or something similar in title." Petition of the Kentucky Commission on the Deaf and Hard of Hearing to Expand the Funding Base for the Kentucky Telecommunications Access Program, Case No. 2007-00464 and Request for Proposal and Selection of a Vendor for Telecommunications Relay Service, Administrative Case No. 372, Order (Kentucky Pub. Serv. Comm'n: February 16, 2009), at 8. Also, the Order directs wireless carriers to give notice to

their retail customers of the upcoming collection of TRS and TAP fees and that “[s]uch notice shall be made through the generation of bill inserts or bill messages.” Id. at 9. TracFone, as a prepaid wireless provider, does not issue bills. The fees are imposed on monthly billed subscribers, not on carriers. Therefore, because TracFone is not obligated to collect the fees from its subscribers, it has no obligation to contribute to the funds.

Request 8b

If so, explain how TracFone will implement the collection process and provide a detailed explanation of the methodology to be used to equate prepaid minutes to a month of service.

Response 8b

Not applicable.

**TRACFONE WIRELESS, INC.
PSC CASE NO. 2009-00100
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REQUEST 9

RESPONSIBLE PERSON: JOSE FUENTES

COMPANY: TRACFONE WIRELESS, INC.

Request 9

Does TracFone seek to receive Lifeline support from the Kentucky Universal Service Fund?

Response 9

As stated in response to Request 7, TracFone is not required to contribute to the Kentucky Universal Service Fund. Therefore, it will not seek to receive Lifeline support from that fund.

COMMONWEALTH OF KENTUCKY

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IN THE COMMONWEALTH OF)
KENTUCKY FOR THE LIMITED)
PURPOSE OF OFFERING LIFELINE)
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QUALIFIED HOUSEHOLDS)

CASE NO.
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PETITION FOR WAIVER

TracFone Wireless, Inc. ("TracFone"), petitions the Commission for waiver of the requirement that all Eligible Telecommunications Carriers ("ETCs") perform an annual audit of all customers receiving Lifeline benefits, as set forth in An Inquiry into Universal Service and Funding Issues, Order, Administrative Case No. 360 (Kentucky Pub. Serv. Comm'n: May 24, 2007) ("Commission Verification Order"). TracFone's compliance with the annual verification requirement is not necessary to minimize fraud, would be unduly burdensome, and would impede TracFone's ability to provide low income Kentucky households with the same Lifeline benefits which it provides its Lifeline customers in other states where it has been designated as an ETC. TracFone further suggests an alternative means to ensure that customers continue to be eligible for Lifeline service.

In 2004, the Federal Communications Commission ("FCC") adopted rules which require ETCs to verify the continued eligibility of Lifeline recipients on an annual basis. Section 54.410 of the FCC's rules (47 C.F.R. § 54.410) requires ETCs to verify annually the continued

eligibility of a statistically valid random sample of Lifeline subscribers. ETCs can conduct the verification by contacting the relevant state agency and confirming that the subscribers in the random sample continue to be eligible by virtue of participation in a qualifying program.¹ Alternatively, the ETC can survey subscribers directly and provide the results of the statistically-valid survey sample to USAC. Subscribers who are subject to the “random sample” survey verification and qualify under program-based eligibility criteria must prove their continued eligibility by presenting in person or sending a copy of their Lifeline-qualifying public assistance card and self-certifying, under penalty of perjury, that they continue to participate in the Lifeline-qualifying public assistance program.²

The FCC’s rules allow states that administer their own Lifeline programs, such as Kentucky, to design and implement their own verification procedures to validate consumers’ continued eligibility. “This flexibility will permit states to develop verification procedures that best accommodate their own Lifeline participants based on the available resources of ETCs and state commissions, each state’s eligibility criteria, and local conditions.”³ In 2007, the Commission determined that ETCs must verify annually the continued eligibility of their entire Lifeline customer bases.”⁴ The Commission noted that “[b]ecause of the small sample sizes under the federal guidelines, many customers have never been audited” during the audits conducted in 2005 and 2006. The Commission further stated that, since the Lifeline program began in 1998, “the eligibility status of customers changed, but many customers failed to notify

¹ Individuals may qualify for Lifeline based on participation in certain assistance programs or based on earning a certain level of income. In Kentucky, Lifeline eligibility is limited to program participation. Therefore, this Petition focuses on program-based eligibility.

² See 47 C.F.R. § 54.410.

³ In the Matter of Lifeline and Link-Up, 19 FCC Rcd 8302, ¶ 34 (2004).

⁴ Commission Verification Order, at 2.

the utilities that they were no longer eligible.” However, the Commission did not provide any specific data- to support its suspicions regarding no longer eligible households remaining in the program -- the premise upon which its rejection of the FCC’s verification procedures was based. The Commission Verification Order requiring annual verification of all Lifeline customers’ continued eligibility is unduly burdensome to TracFone and is inconsistent with Kentucky’s eligibility certification criteria. Therefore, TracFone respectfully requests that the Commission waive the requirement of annually verifying the eligibility of all Lifeline customers..

Based on its experience as an ETC in other states, TracFone anticipates that it will provide Lifeline service to at least 30,000 customers in 2009, plus an additional 150,000 customers in 2010. Thus, in order to comply with the Commission’s verification requirement, TracFone would need to obtain proof of eligibility to participate in Lifeline for approximately 190,000 individuals in 2010. Contacting each of those individuals and obtaining proof of participation in a qualified program would be extremely burdensome and would substantially and unnecessarily increase the cost and difficulty to TracFone of providing its SafeLink Wireless service to qualified low income Kentucky households.

Moreover, requiring TracFone to obtain proof of participation from each Lifeline consumer on an annual basis would exceed the eligibility certification criteria required by the Commission for enrollment of new Lifeline customers. The Commission requires ETCs to obtain proof of participation in a qualified program from customers prior to providing Lifeline service to those customers. The Commission has adopted the federal certification requirement which allows applicants to self-certify under penalty of perjury that they receive benefits from a

qualified program.⁵ The Commission's annual verification requirement, which requires ETCs to obtain documented proof of eligibility from all Lifeline customers, is more rigorous than the initial self-certification requirement applicable to Lifeline applicants. Kentucky's verification requirement is inconsistent with its eligibility certification criteria because it directs all Lifeline recipients to reapply for Lifeline service under a more onerous standard (i.e., requiring Lifeline customers to present in person or provide a copy of proof of participation in a qualified program) than that used when they initially applied for Lifeline.

In Kentucky, less than 20 percent of households that are eligible to receive Lifeline service, actually participate in the Lifeline program.⁶ Since its inception, serving low income customers has been a key part of TracFone's business model. With more than 80 percent of Kentucky Lifeline-eligible low income households not participating in Lifeline, TracFone believes that it can significantly increase the level of Lifeline participation in Kentucky and bring to Kentucky an opportunity to benefit from the federal Universal Service Fund to which Kentucky residents contribute millions of dollars each year.

Moreover, unlike other ETCs, TracFone provides every Lifeline customer with a free handset, with an average value of over \$50 per unit. Therefore, assuming that TracFone provides Lifeline service to 20,000 new customers in Kentucky in 2009 (well below the number of Lifeline customers TracFone expects to have in Kentucky in 2009), TracFone will spend \$1,000,000 of unreimbursed funds to facilitate low-income Kentuckians' ability to obtain

⁵ An Inquiry into Universal Service and Funding Issues, Order, Administrative Case No. 360 (Kentucky Pub. Serv. Comm'n: October 1, 2004), at 2 ("the FCC's self-certification process and annual audit procedures will be implemented").

⁶ See Lifeline and Link-Up, 19 FCC Rcd 8302, Table 1.A. The Universal Administrative Company estimates that in 2007 the participation rate for eligible households in Kentucky was between ten and twenty percent (10-20%). See 2007 Participation Rates by State, available at <http://www.usac.org/li/about/participation-rate-information.aspx>.

Lifeline service. This substantial investment in Lifeline customers demonstrates TracFone's strong commitment to maintaining the Lifeline program. The Commission's waiver of its annual verification requirement for all Lifeline customers will allow TracFone to continue to offer Lifeline customers a free handset, while not requiring TracFone to expend significant resources verifying annually the eligibility of every Lifeline customer. TracFone urges the Commission to set verification requirements for TracFone that facilitate TracFone's provision of Lifeline service and individuals' participation in the Lifeline program, while guarding against abuse of the Lifeline program.

TracFone requests the Commission to waive the annual verification requirement for TracFone and to require an alternative means to ensure that Lifeline customers are not receiving Lifeline benefits to which they are not entitled. For example, TracFone is willing to conduct a verification audit using a larger sample size than that required under the FCC's rules or to conduct such audits on a semiannual basis, rather than an annual basis, to provide the Commission with greater assurance that the Lifeline program is not being abused. These solutions would balance the need for an expedited and efficient verification process with the principle of minimizing abuse of the Lifeline program.

TracFone also suggests that the Commission consider adopting an on-line or other computer-based system that will permit ETCs to check whether current Lifeline customers remain eligible for Lifeline benefits. Indeed, the FCC has found that "an on-line verification process, where states can obtain and provide data to allow ETCs real-time access to a database of low-income assistance program participants or income reports, could be a quick, easy, and

accurate solution.”⁷ Other states, such as Florida, have implemented such a system and have found it to be successful in preventing abuse of the Lifeline program.

CONCLUSION

For the reasons set forth in this Petition, TracFone respectfully asks the Commission to waive the annual verification requirement in the Commission Verification Order and to allow TracFone to use the alternative verification processes described in the petition. Either of those methods would provide adequate assurances to the Commission while not impeding TracFone’s ability to provide Lifeline service to low income Kentucky households. These alternatives would enable TracFone to significantly increase participation in the Lifeline program by qualified low income households.

Respectfully submitted,

TRACFONE WIRELESS, INC.

By: 

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May 14, 2009

⁷ Lifeline and Link-Up, ¶ 36.