

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1437

In the Matter of)	
)	Citizens' Utility Board of Oregon's
TRACFONE WIRELESS, INC.)	Motion to Compel Tracfone to
Application for Designation as an Eligible)	Respond to CUB's Data Requests and
Telecommunications Carrier)	for Additional Time to Analyze and
)	File Supplemental Testimony Related
)	to Any Additional Information
)	Provided
)	Expedited Review Requested
)	

I. INTRODUCTION.

The Citizens' Utility Board of Oregon (CUB) hereby files the "Citizens' Utility Board of Oregon's Motion to Compel Tracfone to Respond to CUB's Data Requests and for Additional Time to Analyze and File Supplemental Testimony Related to Any Additional Information Provided". CUB further requests that this motion be subject to **Expedited Review Requested** so as to prevent undue delay to the docket.

The Motion to Compel and request for additional time result from Tracfone's decision not to provide discovery to CUB and not from any desire on CUB's part to delay this docket. CUB has attempted to work with Counsel for Tracfone, calling on July 27, 2010, and seeking discussion of the offending data request responses.¹ Tracfone's Counsel did not return CUB's telephone call responding in an email on July 29, 2010, and saying:

¹ Exhibit A Affidavit of Catriona McCracken.

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Catriona,

I received your voice mail yesterday. I think it would be more productive to have lead counsel on the call with you, which accounts for the delay in my getting back to you. We will call you as soon as we are able.

Thanks,
Larry²

No call was ever forthcoming. CUB learned of Tracfone's Motion to Deny Intervention filed at 4:37 p.m. on Friday July 30, 2010 – the day CUB moved its offices – on Monday August 2, 2010 in a phone call from Staff, who knowing that CUB did not have reliable internet access or phone access due to its move wanted to be sure CUB was aware of the filing.³ Tracfone did not discuss the filing of its motion with CUB even though it had ample opportunity to do so – including on the day of filing when it arranged for hand delivery of delayed confidential responses to prior Staff data requests.⁴

II. CUB'S DATA REQUESTS.

CUB has now exercised its right to ask data requests that shine a light on Tracfone's business plans, or lack there of.⁵ It would appear that Tracfone has, as a result of those data requests, become motivated to try and find a way to eliminate CUB and CUB's "inconvenient" questions from the docket in the hope of not responding to any Motions to Compel that CUB might file.⁶ Exhibit A Attachment 4 contains a complete set of CUB's data requests, and, where responses have been forthcoming also

² EXHIBIT A Attachment 1.

³ Exhibit A Affidavit of G. Catriona McCracken.

⁴ *Id.*

⁵ Exhibit A Attachments 2 and 3 Emails from Catriona McCracken to Lawrence Reichman July 29 and 30, 2010.

⁶ Tracfone's Motion to Deny Intervention at 8-21.

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contains that response unless the response is confidential.⁷

For ease of reference the Data Request numbers for which CUB has been struggling to obtain answers, CUB's rationale as to why the information needs to be produced, Tracfone's email response to CUB's objections are as follows – See Exhibit A Attachment 5. CUB's position as to the status of Tracfone's answers to CUB's Data Requests appears below in **BOLD CAPS**. Additional argument as to why these responses are necessary is provided there after in Section III:

CUB DR 4 - CUB believes that the information requested is relevant to any determination as to the Company's health now and in the future and whether this transaction is in the public interest⁸

TracFone will provide a supplemental response this afternoon including the current, total number of customers it has in Oregon. TracFone does not have any estimates/forecasts as you have requested.

TRACFONE PROVIDED A CONFIDENTIAL RESPONSE ANSWERING ONLY THE PART OF THIS QUESTION THAT PERTAINS TO CURRENT CUSTOMER NUMBERS. CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REST OF THE REQUESTED INFORMATION.

⁷ Exhibit A Attachment 4.

⁸ In a prior email to Mr. Reichman of July 29, 2010 Exhibit A Attachment 2 CUB had stated in regard to this data request "Even more bothersome and inappropriate is the fact that Tracfone appears to have done no due diligence prior to its attempt to enter the Oregon market. CUB DR 5 asked for "forecasts" done to determine anticipated customers in Oregon. Tracfone's response was that it had not done any. Whether it was a "study" a "projection" an "estimate", a "forecast" is semantics. If Tracfone has data on this it should provide it otherwise CUB will be forced to write testimony stating that the company clearly has not done its due diligence and should not be allowed to do business in Oregon."

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CUB DR 5 – See prior email. It matters not what you called your “study”, “estimate”, “goal”, “projection” the information is relevant and should be provided otherwise CUB will be forced to file testimony stating that the Company has not done the necessary due diligence

TracFone has fully responded to this DR. See above.

CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REST OF THE REQUESTED INFORMATION.

CUB DR 6 – same as 5 above

TracFone has fully responded to this DR. See above.

CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REST OF THE REQUESTED INFORMATION.

CUB DR 7 – How and what Tracfone pays is highly relevant to whether this transaction is in the public interest for Oregon

TracFone stands on its objection.

CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REQUESTED INFORMATION.

CUB DR 16 – This information is necessary to determine how universal service funds are being used

TracFone will provide a supplemental response including this information this afternoon.

ANSWERED.

CUB DR 17 - CUB believes that the information requested is highly relevant to the ability of the Commission to make a public interest determination for Oregon

TracFone will provide a supplemental response including this information (averaged for all states) this afternoon.

ANSWERED.

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CUB DR 18 - CUB believes that the information requested is highly relevant to the ability of the Commission to make a public interest determination

TracFone stands on its objection.

CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REST OF THE REQUESTED INFORMATION.

CUB DR 19 – The financial health of Tracfone is relevant to the ability of the Commission to make a public interest determination

TracFone stands on its objection.

CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REST OF THE REQUESTED INFORMATION.

CUB DR 20 – What Tracfone has told everyone about its plans for Oregon is highly relevant to the ability of the Commission to make a public interest determination

We have provided Staff with a supplemental response to this identical request and also provided that to CUB.

TRACFONE PROVIDED A SUPPLEMENTAL RESPONSE ANSWERING ONLY PART OF THIS QUESTION. CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REST OF THE REQUESTED INFORMATION.

CUB DR 21 – How Tracfone runs its other services is relevant to its business model and whether that model is in the public interest of the Oregon customer.

TracFone has fully responded to this DR.

TRACFONE PROVIDED A RESPONSE ANSWERING ONLY PART OF THIS QUESTION. CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REST OF THE REQUESTED INFORMATION.

CUB DR 22 – How Tracfone runs its other services is highly relevant to its business model and whether that model is in the public interest of the Oregon customer.

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This appears to be duplicative of DR 4. See response above.

TRACFONE PROVIDED A CONFIDENTIAL RESPONSE ANSWERING ONLY THE PART OF THIS QUESTION THAT PERTAINS TO CURRENT CUSTOMER NUMBERS. CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REST OF THE REQUESTED INFORMATION.

CUB DR 23 - The current and future financial health of Tracfone is highly relevant to whether this project is in the public interest

TracFone stands on its objection.
CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REST OF THE REQUESTED INFORMATION.

CUB DR 24 – CUB is still waiting for confidential and highly confidential information to be provided to CUB – see my prior email.

See responses to DR 4, 16, and 17 above. DR 16 and 17 are the same as Staff 8 and 9.

ANSWERED 16 AND 17. IN TERMS OF DR 4 TRACFONE PROVIDED A CONFIDENTIAL RESPONSE ANSWERING ONLY THE PART OF THIS QUESTION THAT PERTAINS TO CURRENT CUSTOMER NUMBERS. CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REST OF THE REQUESTED INFORMATION.

CUB is still waiting for responses to:

CUB DRs 25-35 responses due today

You have these now.

TRACFONE PROVIDED RESPONSES TO CUB DR 25, 26, 27, 29, 30, 31, 33, AND 34. TRACFONE OBJECTED TO DR 28, 32 AND 34. TRACFONE HAS NOT PROVIDED RESPONSES TO CUB DR 28 AND 32, AND CUB RESPECTFULLY REQUESTS THAT TRACFONE BE ORDERED TO PROVIDE THE REQUESTED INFORMATION. CUB ALSO REQUESTS THAT TRACFONE BE REQUIRED TO ANSWER DR

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34 IN DETAIL.

CUB DRs 36-40 responses due Aug 9 – obviously it would be helpful if you can respond to these prior to our time for filing testimony

RESPONSES TO THESE DATA REQUESTS ARE NOT YET DUE AND TRACFONE HAS NOT RESPONDED TO THESE REQUESTS AT THIS TIME. CUB NEVERTHELESS REQUESTS THAT THE COMMISSION ADDRESS THESE REQUESTS IN ITS ORDER RELATED TO THIS MOTION AND REQUIRE TRACFONE TO PROVIDE APPROPRIATE RESPONSES TO PENDING AND FUTURE DATA REQUESTS SO THAT THE DOCKET IS NOT FURTHER DELAYED WITH ADDITIONAL MOTIONS TO COMPEL HAVING TO BE FILED.

CUB DR 41 responses due Aug 10 – obviously it would be helpful if you can respond to this prior to our time for filing testimony

TracFone will respond to these additional requests in a timely manner.

RESPONSE TO THIS DATA REQUEST IS NOT YET DUE AND TRACFONE HAS NOT RESPONDED TO THIS REQUEST AT THIS TIME. CUB NEVERTHELESS REQUESTS THAT THE COMMISSION ADDRESS THIS REQUEST IN ITS ORDER RELATED TO THIS MOTION AND REQUIRE TRACFONE TO PROVIDE APPROPRIATE RESPONSES TO PENDING AND FUTURE DATA REQUESTS SO THAT THE DOCKET IS NOT FURTHER DELAYED WITH ADDITIONAL MOTIONS TO COMPEL HAVING TO BE FILED.

In addition to the above CUB has now filed Data Requests 42-45.

RESPONSE TO THESE DATA REQUESTS IS NOT YET DUE AND TRACFONE HAS NOT RESPONDED TO THESE REQUESTS AT THIS TIME. CUB NEVERTHELESS REQUESTS THAT THE COMMISSION ADDRESS THESE REQUESTS IN ITS ORDER RELATED TO THIS MOTION AND REQUIRE TRACFONE TO PROVIDE APPROPRIATE RESPONSES TO PENDING AND FUTURE DATA REQUESTS SO THAT THE DOCKET IS NOT FURTHER DELAYED WITH ADDITIONAL MOTIONS TO COMPEL HAVING TO BE FILED.

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III. CUB'S DETAILED ARGUMENTS AS TO WHY THE COMMISSION SHOULD FIND THAT THE INFORMATION REQUESTED BY CUB IS RELEVANT TO THIS DOCKET, NOT UNDULY BURDENSOME, OPPRESSIVE, ANNOYING OR EMBARRASSING TO TRACFONE AND SHOULD BE PROVIDED IN THE FORM OF DETAILED, COMPLETE RESPONSES TO CUB.

CUB's testimony in this docket details many of the problems with Tracfone's provision of data responses in this docket. That testimony will be referenced in detail here. CUB's testimony explains why all of the data requests asked by CUB are relevant to this docket and the determination as to whether Tracfone's Application is in the public interest.

CUB DR 5 asks TracFone to detail the number of customers the Company expects to add over the next 1-5 years to its SafeLink wireless service. The Company's response claims it does not have any plans or projections for the number of customers it expects to add upon becoming an eligible ETC provider in Oregon. CUB is skeptical that a company would make the investment in a regulatory proceeding such as this without real business plans for how it will operate, but clearly that is what TracFone is claiming. If this is indeed the case, it is a strong indication that TracFone may not be adequately prepared to handle a significant increase in its business in Oregon. For example, if the Company has no sales projections for Oregon, how can it appropriately size its call center to respond to customer concerns and problems? How can it know how many free phones to purchase to hand out to customers? How can it know what compensation to expect from the USF?

Being prepared for the business it might expect from Oregon customers is important.

Customers of subsidized Lifeline phone service should have an expectation of good
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service. Oregon should require providers to ensure good service. It is not in the public interest to use subsidies to direct low income families into substandard service.⁹

CUB DR 42 to 44 In its response to Staff DR 53, TracFone claims that customer service calls are answered within 1 minute. CUB called the SafeLink customer service number (1-800-378-1684) five times over the course of the day on July 28, 2010, to see how long it took to reach a customer service representative. The first four calls to the number received a recording that said that due to the high volume of calls, representatives were unable to answer the call and customers should call back another time. The fifth call did indeed reach a customer service representative within 1 minute. CUB has since submitted a data request to TracFone inquiring about the percentage of calls to customer service that receive the message asking customers to call back later, as well as the percentage of calls that are never answered by a representative. The fact that TracFone's call center does not seem to be adequately sized for the current "high volume of calls" suggests that it is not the right time for the Oregon PUC to find that an Application from TracFone to extend its services to yet more Oregon customers is in the public interest. How is a Company with no Oregon business plan, no Oregon sales projections, and an already overstretched call center going to cope with additional customers?¹⁰

CUB DR 28 TracFone has pledged that "one hundred percent of the federal Lifeline support it receives will be flowed through to Lifeline customers in the form of free usage."¹¹ CUB finds it hard to believe this claim given that there will be some customers whose phones are not charged and turned on during the first few days of the month and

⁹ UM 1437 CUB/100 Jenks/6

¹⁰ UM 1437 CUB/100 Jenks/7

¹¹ UM 1437/TracFone/1/Fuentes/3

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the same customers may fail to contact TracFone to receive their minutes. In fact, TracFone's policy of de-enrollment of customers who have no activity for two months seems consistent with an expectation that some folks, after signing up for a phone, simply don't use it. Because TracFone's deactivation process takes two months, it seems clear that the Company is in fact receiving USF support for customers who are no longer receiving and using USF support and thus not all USF support is in fact passed on to customers in the form of free minutes or wireless airtime.

The federal Universal Service Fund program is not free money. It is not supported by taxpayers, but it is funded by telecommunications customers nationwide for the express purpose of providing universal telephone service in the United States by supporting low income customers and helping companies provide service in high-cost areas. Customers, who fund the program, including telephone customers in Oregon, expect that the funds are used efficiently and wisely to permit access by other customers who would otherwise have none. Customers do not expect the USF funds to be retained by a telecommunications provider in order to enhance the bottom line of that company.

CUB asked TracFone to provide the number of customers who do not receive their free minutes because their phone is not turned on; the number of customers who did not self-retrieve these minutes from TracFone and the number that did not then contact TracFone to receive their minutes. TracFone responded that this information is "not relevant."

CUB disagrees that this information is not relevant and in this Motion to Compel is respectfully requesting that the Commission rule on the relevancy of CUB's request.

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What is relevant is a decision for the Commission to make and not the Company.

CUB thinks the requested information is highly relevant. TracFone claims that all federal USF funds are passed through to customers as free minutes. CUB's Data Request 28 asked the Company to document this – to show to what extent its process for transferring the USF supported minutes to customers could successfully deliver that promise. TracFone failed to demonstrate that federal USF funds are fully converted into minutes and passed through to customers.

Because TracFone refuses to demonstrate that the benefits of the USF funds are fully passed through to the low income customers who are supposed to benefit from those funds, it is CUB's position that it would be unfair to ask customers who fund the USF to support the granting of TracFone's proposed service.

TracFone receives federal USF funds to provide the free minutes to its SafeLink customers, but claims it is not relevant whether the customers actually receive the free minutes. CUB, in its Motion to Compel is asking that the Commission order TracFone to provide this information. CUB is also asking that the Commission grant CUB time to analyze any new information that is provided and to write supplemental testimony on the information before the docket proceeds further. As provided in ORCP 36B(1) “[f]or all forms of discovery, parties may inquire regarding any matter, not privileged, which is relevant to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection

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that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.” CUB believes that all of its data requests are reasonably calculated to lead to the discovery of admissible evidence. None of CUB’s questions were designed to cause annoyance, embarrassment, oppression or undue burden or expense.

CUB DR 14 and 15 CUB notes that in other states, TracFone is offering SafeLink phones with better value on a promotional basis. According to TracFone’s response to CUB DR 14, SafeLink currently offers customers in several states between 120 and 250 minutes per month. TracFone has not indicated how it is able to afford to provide this many minutes in the states in question, while only providing 68 minutes per month in Oregon.

CUB does not believe that 68 free minutes adequately accounts for the \$10 per month of federal OUS support. In today’s competitive marketplace, prepaid wireless minutes have a value that is well below 20 cents per minute. CUB believes that TracFone’s Oregon application is overcharging the federal USF program and is not fair to the customers who support that program. CUB has asked data requests to elicit information in this regard. CUB respectfully requests that the Commission order TracFone to provide detailed responses to CUB’s requests for information. All of the information sought is relevant to this matter.

CUB DR 32 CUB also asked TracFone about its customer service in CUB DR 32. As CUB stated above, according to the internet, TracFone has a reputation for poor customer service, and USF funds should not be used to direct customers into substandard telephone

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service. TracFone again responds that CUB's request is not relevant to this proceeding. CUB disagrees. CUB believes that the quality of the services which a telephone service provider provides to low income Oregonians is important. CUB, in its Motion to Compel is asking that the Commission order TracFone to provide this information. CUB is also asking that the Commission grant CUB time to analyze this information and to write supplemental testimony on any new information that is provided before the docket proceeds further. As noted above, as provided in ORCP 36B(1) "[f]or all forms of discovery, parties may inquire regarding any matter, not privileged, which is relevant to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." CUB believes that all of its data requests are reasonably calculated to lead to the discovery of admissible evidence. None of CUB's questions were designed to cause annoyance, embarrassment, oppression or undue burden or expense. Both of these data request examples are questions that go to the heart of TracFone's application. Whether the USF is being used to provide free minutes and whether the quality of the service that is being subsidized is adequate. The claim that these are "not relevant" is patently absurd.¹²

DR 36, 37, 38, 39 TracFone covers the cost of the first 68 minutes preloaded on the

¹² UM 1437 CUB/100 Jenks 17-18.

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phone by applying to the Universal Service Fund (“USF”) for \$9.9 worth of support for that phone. If a customer goes two full calendar months without usage of the phone (usage includes making or receiving a phone call or text message), then TracFone will deactivate that phone and no longer receive support from the federal USF. The result of this business model is that TracFone is guaranteed \$29.70 in USF for every new customer it signs up. CUB asked data requests designed to ascertain what activation and deactivation mean and what the financial impact on the USF is related to that. Responses to these data requests are not yet due but CUB is concerned that it will meet with the same stonewalling that it has endured to date. CUB respectfully requests that the Commission order that Tracfone respond in detail to these requests for information.

DR 15 - Finally, there are a series of answers that on their face do not seem to be accurate – perhaps this impression is caused by the lack of detail provided by TracFone in its answers as addressed above.

In its answer to CUB DR 15 TracFone claims that it provides “the complete amount of federal USF funding it receives to its Lifeline customers in the form of free minutes or wireless airtime.” This answer does not seem accurate, since TracFone continues to receive USF funding for customers who are in the process of being deactivated for non-usage.

TracFone’s claim that it has no forecast of the number of customers it will gain in Oregon is another example. TracFone is investing significant resources in its Oregon application. It expects to have customers enrolled within 4 to 6 weeks of approval from this Commission. But to have customers enrolled requires TracFone to have certain

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infrastructure in place; marketing material and marketing plans, phones available, and capacity at its call center.

CUB in this Motion to Compel is asking the Commission to order TracFone to provide detailed responses to all of CUB's Data Requests including these ones and to allow CUB to Supplement this testimony once TracFone provides the additional information requested. Without that information, and CUB and other parties' testimony on that information, CUB does not see how the Commission will have a record upon which it can base a decision as to whether TracFone's application is in the public interest.¹³

Staff DRs - In some cases, after objecting to a data response and claiming that it is "not relevant," TracFone went ahead and provided an answer "without waiving its objection." All too often, these responses failed to make any real attempt to respond to the specifics of the question. TracFone's use of this response technique was not limited to its responses to CUB.

OPUC Staff asked TracFone about its efforts to prevent the resale of its SafeLink phones to customers who are not eligible. The Staff asked for some specific information, such as how many people are involved, when this effort began, how often resources are dedicated to it and whether it was successful:

DR 56 How many personnel in the TracFone Loss Prevention department are dedicated to monitoring classified posting and web blogs and establishing informational alerts in web search engines to ensure that SafeLink Wireless brand

¹³ UM 1437 CUB/100 Jenks/20

name and products are not used for resale or for fraudulent purposes? Is this department monitoring on a daily basis? When was the Loss Prevention department established? How many case of resale of fraud has this department detected since its inception?

TracFone's answer, answers none of the specific questions that were asked:

Without waiving its objection, TracFone states that during the past year it has become aware of only a few instances of fraud related to the use if(sic) the SafeLink Wireless® brand name or resale of SafeLink Wireless® products out of its more than three million Lifeline customers.

Another example is Staff Data Request 67. In this data request Staff is requesting specific information about the number of customers that are deactivated:

DR 67 Please list the states where TracFone is required to report and contact Lifeline customers after a given number of days (e.g., 60 days, 90 days) of inactivity on their SafeLink Wireless service. For each state, by quarter, please identify:

- a. The number of total SafeLink customers
 - b. The number of customers with inactivity during the test period, and
 - c. The number of customers deactivated for inactivity.
- Staff is again asking for some very specific information. But TracFone does not

provide it:

Without waiving its objection, TracFone states that it is required to submit quarterly reports to the Ohio Public Utilities Commission and the

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Wisconsin Public Service Commission based on the application of its non-usage policy to TracFone's Lifeline customers in Ohio and Wisconsin.

Nearly all questions that asked for specific, quantifiable information are answered with a general answer that does not provide any specific, quantifiable information. CUB in its Motion to Compel is asking the Commission to order TracFone to provide detailed responses to all of CUB's Data Requests. CUB thinks that it would be appropriate for the Commission to also order that TracFone respond in detail to all of Staff's data requests so that the Commission has a record upon which it can base a decision as to whether TracFone's application is in the public interest.¹⁴

IV. CUB requests that the Commission grant it an additional three weeks from the date of its decision on this filing to review and analyze any additional information received and to file supplemental testimony in that regard.

CUB respectfully requests that the Commission grant CUB an additional three weeks from the date of the Commission's Order related to this Motion so that CUB may review and analyze any additional information received and so that CUB may file supplemental testimony in regard to that additional information if any is provided. CUB would therefore be required to file any supplemental testimony on or before August 24, 2010.

V. Tracfone alleges that the information asked of it by CUB is in some cases highly confidential and proprietary.

It is not unusual for a Company to claim that the information that may be sought by parties to a docket is highly confidential and proprietary. Some companies go so far as to seek a Highly Confidential Protective order which generally adds additional limits as to persons who may review the materials and sets forth means for the material to be

¹⁴ UM 1437 CUB/100 Jenks/18-19.

reviewed and entered into the record. Tracfone opted not to seek such a protective order.

If Tracfone is now claiming that some of its materials merit the imposition of a highly confidential protective order then Tracfone needs to file a motion seeking such an order. The fact that CUB would likely oppose such a request – though CUB does not remember any discussion of such a possible filing in this docket – is neither here nor there. If CUB in fact has no basis for intervening as of right in this matter then Tracfone has nothing to worry about from CUB on that score. Tracfone can not hold up as a shield, to the provision of responses to data requests, the possible confidential and proprietary nature of its materials if it is not willing to actually go out and seek such protection for them. And Tracfone can not claim that such protection negates CUB’s ability to obtain and use such material except as explicitly ordered by the Commission. CUB is a frequent participant in Commission dockets, is not a competitor to the applicant company, has signed the only existing protective order and should not be denied access to the requested information.

VI. ALL OF THE INFORMATION NECESSARY TO MAKE DETERMINATIONS UNDER THIS FILING ARE IN THE POSSESSION AND CONTROL OF TRACFONE.

All of the information necessary to make determinations under this filing is in the possession and control of Tracfone. CUB has no other source for obtaining this information. CUB is not a competitor of Tracfone and is the statutorily designated watchdog for representation of utility consumers. ORS Chapter 774. All of the information sought by CUB is calculated to lead to the discovery of admissible evidence. ORCP 36(B)(1). CUB’s requests are not unduly burdensome, designed to cause

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annoyance or embarrassment. ORCP 36. CUB has a right to see this information.

VII. COUNSEL FOR STAFF HAS REQUESTED THAT THE COMMISSION ALSO ALLOW IT TIME TO CONSIDER CUB'S MOTION AND POTENTIALLY TO FILE ITS OWN MOTION OR TO JOIN IN CUB'S MOTION.

Michael Weirich, Attorney for Staff, in an email to CUB dated July 29, 2010, requested that CUB's Legal Counsel advise the Commission that Staff may want to weigh-in on the discovery issues but that Attorney Weirich will not be back in the office until August 4, 2010. Attorney Weirich respectfully requests a few days from CUB's date of filing to consider this option.

VIII. CONCLUSION.

All of the information necessary to prove Tracfone's due diligence and whether Tracfone's Application is in the public interest is in Tracfone's possession and control. CUB is not a competitor of Tracfone and will not use the information for competitive purposes. There is no other source from which CUB can obtain this material. Contrary to all of Tracfone's objections, the information sought by CUB is calculated to lead to the discovery of admissible evidence. ORCP 36(B)(1). Nothing about CUB's requests is designed to engender annoyance, embarrassment, oppression or undue burden or expense. ORCP 36 C. The fact that Tracfone would prefer that no one notice its lack of cooperation in the discovery process, inadequate data responses, and lack of regard for the regulatory process is not a justifiable basis upon which to premise its refusals to answer, its provision of incomplete data responses and its non answers.

CUB respectfully requests that the Commission grant CUB's "Citizens' Utility Board of Oregon's Motion to Compel Tracfone to Respond to CUB's Data Requests and

UM 1437 Citizens' Utility Board of Oregon's Motion to Compel Tracfone to Respond to CUB's Data Requests and for Additional Time to Analyze and File Supplemental Testimony Related to Any Additional Information Provided
Expedited Review Requested

for Additional Time to Analyze and File Supplemental Testimony Related to Any
Additional Information Provided **Expedited Review Requested.**”

DATED this 3rd day of August, 2010.

Respectfully submitted,



G. Catriona McCracken, Attorney #933587
Legal Counsel
Citizens' Utility Board of Oregon
610 SW Broadway Ste 400
Portland, OR 97205
(503) 227-1984
Catriona@oregoncub.org

UM 1437 Citizens' Utility Board of Oregon's Motion to Compel Tracfone to
Respond to CUB's Data Requests and for Additional Time to Analyze and
File Supplemental Testimony Related to Any Additional Information
Provided
Expedited Review Requested

UM 1437

In the Matter of)
) Citizens' Utility Board of Oregon's Motion
) to Compel Tracfone to Respond to CUB's
) Data Requests and for Additional Time to
 TRACFONE WIRELESS, INC. Application)
) Analyze and File Supplemental Testimony
 for Designation as an Eligible)
) Related to Any Additional Information
 Telecommunications Carrier.)
) Provided
) **Expedited Review Requested**

EXHIBIT A

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1437

In the Matter of)
)
TRACFONE WIRELESS, INC.) AFFIDAVIT OF CATRIONA
Application for Designation as an Eligible) MCCRACKEN
Telecommunications Carrier)
_____)

I, Catriona McCracken, being duly sworn on oath, depose and say:

1. I am a Legal Counsel for the Citizens' Utility Board of Oregon.
2. On July 27, 2010 I telephoned Lawrence Reichman hoping to discuss CUB's pending data requests and the need for supplementation of the responses by Tracfone. Mr. Reichman was not in and I left him a voicemail explaining that CUB believed Tracfone's data responses to be inadequate. I reminded Mr. Reichman that testimony was due on August 3, 2010 and that if Tracfone had not appropriately supplemented its data responses by that time that CUB would be forced to file testimony stating that in CUB's opinion Tracfone had failed to perform due diligence prior to filing its Application and that its Application should be denied.
3. I did not have any communication with Mr. Reichman on July 28, 2010.
4. On July 29, 2010 Mr. Reichman and I exchanged a series of emails which are attached hereto as ~~Exhibit~~ *Attachments 1, 2 and 3.*
5. Mr. Reichman had certain additional materials delivered to my office on Friday, July 30, 2010 – CUB moving day. We understand that those documents were largely copies of confidential materials previously provided to Staff.
6. Michael Weirich, Attorney for Staff, in an email to CUB dated July 29, 2010, requested that CUB's Legal Counsel advise the Commission that Staff may want to weigh-in on the discovery issues but that Attorney Weirich will not be back in the office until August 4, 2010. Attorney Weirich respectfully requests a few days from CUB's date of filing to consider this option.

7. CUB learned of the filing of Tracfone's Motion to Deny Intervention through a telephone call from Staff who, knowing that CUB was moving and did not have internet or telephone access, wanted to advise CUB that such a motion had been filed.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF OREGON THAT THE FOREGOING IS TRUE AND CORRECT BASED ON MY INFORMATION AND BELIEF.

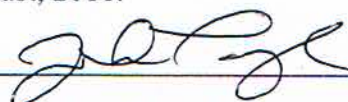
Signed this 3rd day of August, 2010.



Catriona McCracken

Subscribed and sworn to before me this 3rd day of August, 2010.



Signed:  _____
Printed: John Taylor _____

My Commission expires: June 23, 2012 _____

Catriona McCracken

From: Reichman, Lawrence (Perkins Coie) [LReichman@perkinscoie.com]
Sent: Thursday, July 29, 2010 9:14 AM
To: Catriona McCracken
Subject: UM 1437

Catriona,

I received your voice mail yesterday. I think it would be more productive to have lead counsel on the call with you, which accounts for the delay in my getting back to you. We will call you as soon as we are able.

Thanks,
Larry

Lawrence Reichman | Perkins Coie LLP
1120 N.W. Couch Street
Tenth Floor
Portland, OR 97209-4128
PHONE: 503.727.2019
FAX: 503.346.2019
E-MAIL: LReichman@perkinscoie.com

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UM 1437

In the Matter of) Citizens' Utility Board of Oregon's Motion
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Telecommunications Carrier.) Provided
) **Expedited Review Requested**

EXHIBIT A

Attachment 2

Catriona McCracken

From: Catriona McCracken
Sent: Thursday, July 29, 2010 11:36 AM
To: 'Reichman, Lawrence (Perkins Coie)'
Cc: Bob Jenks; Ray Myers; Kevin Parks; Gordon Feighner
Subject: RE: UM 1437

Larry:

It is entirely up to Tracfone how they respond to our data requests and my telephone call to you of July 27, 2010, but I would remind you that testimony is due from intervenors on Tuesday, August 3, 2010. If CUB does not have adequate responses to its data requests I will be filing a Motion to Compel and a Motion for Extension of Time to file Testimony. An example of our concerns follows:

Staff DR 8 and 9 – Staff made these data request early in the process. Tracfone's response was that responding would require disclosure of confidential information and that it would only be answered when there was an appropriate protective order in place. That protective order has been in place for some time and CUB is yet to receive the response that Tracfone provided to Staff. CUB knows that Tracfone responded to staff – Tracfone's response to Staff DR 35 demonstrates this.

CUB DR 17 - this Data request was very similar to Staff DR 9. The response to CUB was that the information sought was not relevant and would not be provided. Obviously CUB disagrees as to the relevancy but is not appropriate for Tracfone to answer a similar question for Staff and fail to answer CUB – CUB has signed the protective order.

This failure to provide responses is limiting CUB's ability to draft testimony and CUB will note that in its Motion to Compel and in its Motion for Extension of Time to File Testimony.

Even more bothersome and inappropriate is the fact that Tracfone appears to have done no due diligence prior to its attempt to enter the Oregon market. CUB DR 5 asked for "forecasts" done to determine anticipated customers in Oregon. Tracfone's response was that it had not done any. Whether it was a "study" a "projection" an "estimate", a "forecast" is semantics. If Tracfone has data on this it should provide it otherwise CUB will be forced to write testimony stating that the company clearly has not done its due diligence and should not be allowed to do business in Oregon.

CUB requires full and complete supplemental answers to all of its testimony by Friday July 30, 2010 – CUB will not be available to review anything received over the weekend or Monday August 2, 2010 as CUB is moving its office location from the 3rd to 4th floors of our building.

All of the information necessary to prove Tracfone's due diligence is in Tracfone's possession and control. There is no other source from which CUB can obtain this material. Tracfone needs to revisit all of its responses to CUB's data requests and supplement their responses. CUB is not a competitor of Tracfone and will not use any information obtained for competitive purposes. CUB's requests are not unduly burdensome, designed to oppress, embarrass or annoy. CUB is simply seeking to have the Company demonstrate that what it desires to do is in fact within the public interest. There is no basis for Tracfone to object to CUB's requests. See ORCP 36 and the Commission rules.

Catriona

G. Catriona McCracken
Legal Counsel
Citizens' Utility Board of Oregon
610 SW Broadway, Suite 308

Karen Jaffe

From: Catriona McCracken
Sent: Tuesday, August 03, 2010 3:03 PM
To: Karen Jaffe
Subject: FW: UM 1437

Catriona

G. Catriona McCracken
Legal Counsel
Citizens' Utility Board of Oregon
610 SW Broadway, Suite 308
Portland, OR 97205
Tel: 503-227-1984
Fax: 503-274-2956
Email: catriona@oregoncub.org

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From: Catriona McCracken
Sent: Thursday, July 29, 2010 1:35 PM
To: 'Reichman, Lawrence (Perkins Coie)'
Cc: Bob Jenks; Gordon Feighner; Ray Myers; Kevin Parks
Subject: RE: UM 1437

Larry:

Here is the full list of the Data Requests for which CUB objects to Tracfone's responses and requests supplemental responses:

- CUB DR 4 - CUB believes that the information requested is relevant to any determination as to the Company's health now and in the future and whether this transaction is in the public interest
- CUB DR 5 - See prior email. It matters not what you called your "study", "estimate", "goal", "projection" the information is relevant and should be provided otherwise CUB will be forced to file testimony stating that the Company has not done the necessary due diligence
- CUB DR 6 - same as 5 above
- CUB DR 7 - How and what Tracfone pays is highly relevant to whether this transaction is in the public interest for Oregon
- CUB DR 16 - This information is necessary to determine how universal service funds are being used
- CUB DR 17 - CUB believes that the information requested is highly relevant to the ability of the Commission to make a public interest determination for Oregon
- CUB DR 18 - CUB believes that the information requested is highly relevant to the ability of the Commission to make a public interest determination
- CUB DR 19 - The financial health of Tracfone is relevant to the ability of the Commission to make a public interest determination

CUB DR 20 – What Tracfone has told everyone about its plans for Oregon is highly relevant to the ability of the Commission to make a public interest determination
CUB DR 21 – How Tracfone runs its other services is relevant to its business model and whether that model is in the public interest of the Oregon customer.
CUB DR 22 – How Tracfone runs its other services is highly relevant to its business model and whether that model is in the public interest of the Oregon customer.
CUB DR 23 - The current and future financial health of Tracfone is highly relevant to whether this project is in the public interest
CUB DR 24 – CUB is still waiting for confidential and highly confidential information to be provided to CUB – see my prior email.

CUB is still waiting for responses to:

CUB DRs 25-35 responses due today
CUB DRs 36-40 responses due Aug 9 – obviously it would be helpful if you can respond to these prior to our time for filing testimony
CUB DR 41 responses due Aug 10 – obviously it would be helpful if you can respond to this prior to our time for filing testimony

Catriona

G. Catriona McCracken
Legal Counsel
Citizens' Utility Board of Oregon
610 SW Broadway, Suite 308
Portland, OR 97205
Tel: 503-227-1984
Fax: 503-274-2956
Email:catriona@oregoncub.org

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From: Reichman, Lawrence (Perkins Coie) [mailto:LReichman@perkinscoie.com]
Sent: Thursday, July 29, 2010 9:14 AM
To: Catriona McCracken
Subject: UM 1437

Catriona,

I received your voice mail yesterday. I think it would be more productive to have lead counsel on the call with you, which accounts for the delay in my getting back to you. We will call you as soon as we are able.

Thanks,
Larry

Lawrence Reichman | Perkins Coie LLP

1120 N.W. Couch Street

Tenth Floor

Portland, OR 97209-4128

PHONE: 503.727.2019

FAX: 503.346.2019

E-MAIL: LReichman@perkinscoie.com

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UM 1437

In the Matter of) Citizens' Utility Board of Oregon's Motion
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 for Designation as an Eligible) Related to Any Additional Information
 Telecommunications Carrier.) Provided
) **Expedited Review Requested**

EXHIBIT A

Attachment 3

Karen Jaffe

From: Catriona McCracken
Sent: Tuesday, August 03, 2010 2:31 PM
To: Karen Jaffe
Subject: FW: UM 1437 CUB's objections to Tracfone's responses to CUB's DRs 28, 32, and 34

Catriona

G. Catriona McCracken
Legal Counsel
Citizens' Utility Board of Oregon
610 SW Broadway, Suite 308
Portland, OR 97205
Tel: 503-227-1984
Fax: 503-274-2956
Email: catriona@oregoncub.org

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From: Kevin Parks
Sent: Tuesday, August 03, 2010 1:36 PM
To: Catriona McCracken
Subject: FW: UM 1437 CUB's objections to Tracfone's responses to CUB's DRs 28, 32, and 34

FYI, This is similar to the info you just had me go over and add to the Motion to Compel...

From: Catriona McCracken
Sent: Friday, July 30, 2010 2:37 PM
To: Reichman, Lawrence (Perkins Coie)
Cc: BRECHERM@gtlaw.com; mercerdm@gtlaw.com; Bob Jenks; Gordon Feighner; Kevin Parks
Subject: RE: UM 1437 CUB's objections to Tracfone's responses to CUB's DRs 28, 32, and 34

CUB is now in receipt of Tracfone's responses to CUB DRs 25 to 35.

Of those responses, responses to DRs 28, 32 and 34 are incomplete and need to be supplemented.

DR 28 – Tracfone objected to DR 28 and failed to provide any response at all. CUB disagrees with Tracfone's assertion that this question is not relevant to their application. This information is highly relevant to a determination of whether what Tracfone is proposing is in the public interest. CUB requires full and complete supplemental answers to all of its testimony by Friday July 30, 2010 – CUB will not be available to review anything received over the weekend or Monday August 2, 2010 as CUB is moving its office location from the 3rd to 4th floors of our building.

All of the information necessary to analyze Tracfone's possession and control. There is no other source from which CUB can obtain this material. Tracfone needs to revisit all of its responses to CUB's data requests and supplement their responses. CUB is not a competitor of Tracfone and will not use any information obtained for competitive purposes.

CUB's requests are not unduly burdensome, designed to oppress, embarrass or annoy. CUB is simply seeking to have the Company demonstrate that what it desires to do is in fact within the public interest. There is no basis for Tracfone to object to CUB's request. See ORCP 36 and the Commission rules.

DR 32 - Tracfone objected to DR 32 and failed to provide any response at all. CUB disagrees with Tracfone's assertion that this question is not relevant to their application. This information is highly relevant to a determination of whether what Tracfone is proposing is in the public interest. CUB requires full and complete supplemental answers to all of its testimony by Friday July 30, 2010 – CUB will not be available to review anything received over the weekend or Monday August 2, 2010 as CUB is moving its office location from the 3rd to 4th floors of our building.

All of the information necessary to analyze Tracfone's possession and control. There is no other source from which CUB can obtain this material. Tracfone needs to revisit all of its responses to CUB's data requests and supplement their responses. CUB is not a competitor of Tracfone and will not use any information obtained for competitive purposes. CUB's requests are not unduly burdensome, designed to oppress, embarrass or annoy. CUB is simply seeking to have the Company demonstrate that what it desires to do is in fact within the public interest. There is no basis for Tracfone to object to CUB's request. See ORCP 36 and the Commission rules.

DR 34 – While Tracfone did put pen to paper on this one other than to object it failed to provide detailed information about its efforts to improve its customer service. Tracfone needs to fully and completely answer this question. This information is highly relevant to a determination of whether what Tracfone is proposing is in the public interest. CUB requires full and complete supplemental answers to all of its testimony by Friday July 30, 2010 – CUB will not be available to review anything received over the weekend or Monday August 2, 2010 as CUB is moving its office location from the 3rd to 4th floors of our building.

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Catriona

G. Catriona McCracken
Legal Counsel
Citizens' Utility Board of Oregon
610 SW Broadway, Suite 308
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Tel: 503-227-1984
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Email: catriona@oregoncub.org

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From: Reichman, Lawrence (Perkins Coie) [<mailto:LReichman@perkinscoie.com>]
Sent: Thursday, July 29, 2010 2:01 PM
To: Catriona McCracken

Cc: BRECHERM@gtlaw.com; mercerdm@gtlaw.com
Subject: RE: UM 1437

Catriona,

Thanks for this additional information. Would you please include TracFone's lead counsel, Rick Brecher and Debra Mercer, on correspondence in the future so there is not delay in communications if I am out of the office?

Thanks,
Larry

Lawrence Reichman | Perkins Coie LLP
1120 N.W. Couch Street
Tenth Floor
Portland, OR 97209-4128
PHONE: 503.727.2019
FAX: 503.346.2019
E-MAIL: LReichman@perkinscoie.com

From: Catriona McCracken [mailto:Catriona@oregoncub.org]
Sent: Thursday, July 29, 2010 1:35 PM
To: Reichman, Lawrence (Perkins Coie)
Cc: Bob Jenks; Gordon Feighner; Ray Myers; Kevin Parks
Subject: RE: UM 1437

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Email: catriona@oregoncub.org

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To: Catriona McCracken
Subject: UM 1437

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Thanks,
Larry

Lawrence Reichman | Perkins Coie LLP
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FAX: 503.346.2019
E-MAIL: LReichman@perkinscoie.com

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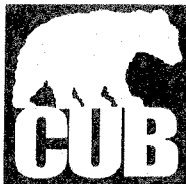
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UM 1437

In the Matter of)	Citizens' Utility Board of Oregon's Motion
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for Designation as an Eligible)	Related to Any Additional Information
Telecommunications Carrier.)	Provided
<hr/>) Expedited Review Requested

EXHIBIT A

Attachment 4



Citizens' Utility Board of Oregon

610 SW Broadway, Suite 308
Portland, OR 97205
(503) 227-1984 • fax (503) 274-2956 • cub@oregoncub.org • www.oregoncub.org

May 18, 2010

DEBRA MCGUIRE MERCER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000
WASHINGTON, DC 20037

MITCHELL F BRECHER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000
WASHINGTON, DC 20037

Re: UM 1437 Data Request 1

Please send responses to the following data requests to Gordon Feighner at gordon@Oregoncub.org, or, for confidential material, at the address above. Please assume that these are on-going requests if any additional information becomes available during the pendency of the case.

If you have any questions, please call us at (503) 227-1984.

Please provide responses electronically only, and in the original electronic format.

1. Please provide responses to OPUC Staff Data Requests 1 – 11.

Thank you for your prompt attention to these requests.

Sincerely,

Gordon Feighner
Utility Analyst
Citizens' Utility Board of Oregon
610 SW Broadway Ste 308
Portland, OR 97205
(503) 227-1984
gordon@oregoncub.org



Citizens' Utility Board of Oregon

610 SW Broadway, Suite 308
Portland, OR 97205
(503) 227-1984 • fax (503) 274-2956 • cub@oregoncub.org • www.oregoncub.org

June 28, 2010

DEBRA MCGUIRE MERCER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000
WASHINGTON, DC 20037

MITCHELL F BRECHER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000
WASHINGTON, DC 20037

Re: UM 1437 Data Request 2

Please send responses to the following data requests to Gordon Feighner at gordon@Oregoncub.org, or, for confidential material, at the address above. Please assume that these are on-going requests if any additional information becomes available during the pendency of the case.

If you have any questions, please call us at (503) 227-1984.

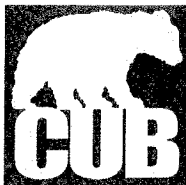
Please provide responses electronically only, and in the original electronic format.

2. Please provide responses to OPUC Staff Data Requests 12 – 79.

Thank you for your prompt attention to these requests.

Sincerely,

Gordon Feighner
Utility Analyst
Citizens' Utility Board of Oregon
610 SW Broadway Ste 308
Portland, OR 97205
(503) 227-1984
gordon@oregoncub.org



Citizens' Utility Board of Oregon

610 SW Broadway, Suite 308
Portland, OR 97205
(503) 227-1984 • fax (503) 274-2956 • cub@oregoncub.org • www.oregoncub.org

July 9, 2010

DEBRA MCGUIRE MERCER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000.
WASHINGTON, DC 20037

MITCHELL F BRECHER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000
WASHINGTON, DC 20037

Re: UM 1437 Data Request 3

Please send responses to the following data requests to Gordon Feighner at gordon@Oregoncub.org, or, for confidential material, at the address above. Please assume that these are on-going requests if any additional information becomes available during the pendency of the case.

If you have any questions, please call us at (503) 227-1984.

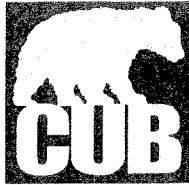
Please provide responses electronically only, and in the original electronic format.

3. Please provide responses to OPUC Staff Data Requests 80-98.

Thank you for your prompt attention to these requests.

Sincerely,

Gordon Feighner
Utility Analyst
Citizens' Utility Board of Oregon
610 SW Broadway Ste 308
Portland, OR 97205
(503) 227-1984
gordon@oregoncub.org



Citizens' Utility Board of Oregon

610 SW Broadway, Suite 308
Portland, OR 97205
(503) 227-1984 • fax (503) 274-2956 • cub@oregoncub.org • www.oregoncub.org

July 14, 2010

DEBRA MCGUIRE MERCER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000
WASHINGTON, DC 20037

MITCHELL F BRECHER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000
WASHINGTON, DC 20037

Re: UM 1437 Data Request 4-24

Please send responses to the following data requests to Gordon Feighner at gordon@Oregoncub.org, or, for confidential material, at the address above. **Note that all responses to requests submitted in this docket must be submitted within 7 business days.** Please assume that these are on-going requests if any additional information becomes available during the pendency of the case it must be provided.

If you have any questions, please call us at (503) 227-1984.

Please provide responses electronically only, and in the original electronic format.

4. How many subscribers does TracFone currently have in Oregon? Please provide current subscriber numbers, as well as estimates/forecasts for 1, 3, and 5 years from now (or similar time periods if the estimates/forecasts already exist in that format) for each of the services, including but not limited to Net10, SafeLink, TracFone, StraightTalk, Pay As You Go, or any and all other currently offered TracFone service.
5. How many customers has TracFone forecast adding to its subscriber base, should its application under this docket to become an Eligible Telecommunications Provider, and/or Eligible Telecommunications Carrier, in Oregon be granted? Please provide estimates/forecasts for 1, 3, and 5 years after eligibility to provide the proposed services commences (or similar time periods if the estimates/forecasts already exist in that format).
6. What percentage of the total Oregon customer base has TracFone forecast as likely participating in Lifeline and other subsidized services? Please provide estimates for 1, 3, and 5 years after eligibility as an ETP, and/or ETC, commences (or similar time periods if the estimates/forecasts already exist in that format).
7. Please detail TracFone's method of payment of 911, or E911 Service Fund, or other like emergency fund fees, to the proper authorities in states in which these payments are made.

8. In states where TracFone provides subsidized or free phones to Lifeline customers, what percentage of these phones are never activated?
9. Does TracFone make any attempt in any state to recover phones from customers who do not activate them or whose accounts are closed as a result of inactivity?
10. Please detail the Company's process for closing customer accounts due to inactivity. If this process differs by state, please detail each state's process.
11. Please detail the Company's process for calculating and applying rollover minutes for its customers. Include any threshold usage amounts, or any other limitations or provisions, relevant to the accumulation, usage, or loss of rollover minutes.
12. Please describe what accounting treatment is given to payments received by TracFone from state and federal subsidy programs (for each state in which such funds are received) for subscribers whose accounts have been closed due to inactivity, or subscribers whose accounts are in the process of being closed due to inactivity.
13. Please describe how TracFone's determination that 68 minutes is the appropriate number of free minutes to provide for subsidized service in Oregon will change if TracFone is eligible to receive \$3.50 in support from OTAP.
14. For each state, in which you provide Lifeline services, how many minutes are offered? Please include all pilot programs offered in any state.
15. Why does the number of subsidized minutes determined for each state differ? Please detail how the number of minutes for subsidized services was determined in other states where the number of subsidized minutes is more or less than that determined for Oregon.
16. What percentage of the outgoing calling minutes of TracFone's current SafeLink customers are to 1) interstate destinations and 2) international destinations?
17. What is the overall average monthly usage (in minutes) for SafeLink customers in each state in which the company operates, including minutes that are purchased beyond the free minutes?
18. For TracFone's non-SafeLink customers in the US, what are the average monthly minutes of use per handset for: a) voice service, and b) all services (including data)?
19. What is the average wholesale cost per minute that TracFone pays to the carriers who wireless service it resells?
20. Please identify all contacts that TracFone's employees, consultants, or representatives have made with legislators, Native American tribes, special interest groups, government agencies, or other entities regarding support for TracFone's ETC application in Oregon. Please specify the individual or group

contacted, the TracFone representative involved, and the date of such contact. Also provide a short summary of the information conveyed as well as a copy of any written material shared with the entity.

21. Please describe each calling plan that TracFone offers, including Net10, Straight Talk and others, addressing rates, terms, and various means by which customers purchase, obtain, and continue service. Also indicate which plans are priced on a monthly basis.
22. In its ETP application, TracFone listed [CONFIDENTIAL] residential, business and tribal customers that TracFone provides services to in Oregon. How many of these customers subscribe to: 1) Net10, 2) StraightTalk, and 3) other TracFone plans?
23. Relative to TracFone's response to Staff DR 10: What is the average wholesale cost to TracFone of each type of handset given to SafeLink customers?
24. Please provide any and all previous "Confidential" responses to Staff DRs 1-39, and Staff DRs 40 - 98, once the Company's responses to those DRs are produced, in accordance with Protective Order 10-189, to which CUB is a signatory.

Thank you for your prompt attention to these requests.

Sincerely,



Gordon Feighner
Utility Analyst
Citizens' Utility Board of Oregon
610 SW Broadway Ste 308
Portland, OR 97205
(503) 227-1984
gordon@oregoncub.org

4. How many subscribers does TracFone currently have in Oregon? Please provide current subscriber numbers, as well as estimates/forecasts for 1, 3, and 5 years from now (or similar time periods if the estimates/forecasts already exist in that format) for each of the services, including but not limited to Net10, SafeLink, TracFone, StraightTalk, Pay As You Go, or any and all other currently offered TracFone service.

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq. This information solely relates to TracFone's non-Lifeline service, which is not the subject of this proceeding. TracFone also objects that this request is beyond the jurisdiction of the Commission in that it seeks information regarding TracFone's services that are not subject to the regulatory authority of the Commission. Section 759.036 of the Oregon Revised Statutes provides the Commission with authority to regulate "telecommunications services". However, Section 759.005(8)(a) specifically excludes radio common carriers, such as TracFone, from the definition of telecommunications services. TracFone further objects that the information sought by this data request is highly confidential, proprietary, and commercially sensitive.

5. How many customers has TracFone forecast adding to its subscriber base, should its application under this docket to become an Eligible Telecommunications Provider, and/or Eligible Telecommunications Carrier, in Oregon be granted? Please provide estimates/forecasts for 1, 3, and 5 years after eligibility to provide the proposed services commences (or similar time periods if the estimates/forecasts already exist in that format).

Response

TracFone has not developed a forecast of the additional customers it would serve if it was designated as an ETC and ETP in Oregon.

6. What percentage of the total Oregon customer base has TracFone forecast as likely participating in Lifeline and other subsidized services? Please provide estimates for 1, 3, and 5 years after eligibility as an ETP, and/or ETC, commences (or similar time periods if the estimates/forecasts already exist in that format).

Response

TracFone has not developed a forecast of the percentage of its Oregon customer base that would likely participate in Lifeline. Although TracFone has no such forecasts, it is hopeful that it will be able to increase the level of Lifeline participation by qualified low-income Oregon households above the 10.7 percent level contained in Federal Communications Commission data.

7. Please detail TracFone's method of payment of 911, or E911 Service Fund, or other like emergency fund fees, to the proper authorities in states in which these payments are made.

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier in Oregon. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq.

8. In states where TracFone provides subsidized or free phones to Lifeline customers, what percentage of these phones are never activated?

Response

All phones that TracFone provides to its SafeLink Wireless® Lifeline customers are activated prior to being sent to the customers.

9. **Does TracFone make any attempt in any state to recover phones from customers who do not activate them or whose accounts are closed as a result of inactivity?**

Response

See response to Data Request 8 regarding the activation of phones. If TracFone de-enrolls a SafeLink Wireless® customer from Lifeline based on application of its non-usage policy, the customer may keep the handset.

10. Please detail the Company's process for closing customer accounts due to inactivity. If this process differs by state, please detail each state's process.

Response

TracFone does not close a customer account due to inactivity. Under TracFone's non-usage policy, customers are de-enrolled from Lifeline. Therefore, those customers no longer receive Lifeline benefits. The non-usage policy, developed in consultation with state commissions and with the FCC, applies in all states in which TracFone provides Lifeline service.

11. **Please detail the Company's process for calculating and applying rollover minutes for its customers. Include any threshold usage amounts, or any other limitations or provisions, relevant to the accumulation, usage, or loss of rollover minutes.**

Response

TracFone's handset contains software that discloses the number of airtime minutes remaining on the handset. At the end of each month, any airtime minutes on the handset remain on the handset and carry over to the following month. There are no threshold usage amounts or limitation of a customer's ability to carry over unused airtime minutes to succeeding months.

12. Please describe what accounting treatment is given to payments received by TracFone from state and federal subsidy programs (for each state in which such funds are received) for subscribers whose accounts have been closed due to inactivity, or subscribers whose accounts are in the process of being closed due to inactivity.

Response

When TracFone de-enrolls a SafeLink Wireless® customer from Lifeline under its non-usage policy, it immediately ceases requesting reimbursement from the federal universal service fund for that customer. Therefore, there is no accounting treatment that is applicable. TracFone does not receive payments from any state subsidy programs related to its Lifeline service.

13. Please describe how TracFone's determination that 68 minutes is the appropriate number of free minutes to provide for subsidized service in Oregon will change if TracFone is eligible to receive \$3.50 in support from OTAP.

Response

TracFone has not yet determined the total number of free minutes it would provide if it was eligible to receive \$3.50 in support from OTAP. However, in the event that TracFone was eligible to receive \$3.50 from OTAP, it would pass through that support in the form of free airtime minutes.

14. For each state, in which you provide Lifeline services, how many minutes are offered? Please include all pilot programs offered in any state.

Response

See Exhibit 14 for the standard number of airtime minutes provided under TracFone's Lifeline service. TracFone is currently offering the following number of minutes to Lifeline customers on a promotional basis: Alabama - 120 minutes; Florida - 150 minutes; Illinois - 200 minutes; and Louisiana - 250 minutes.

Exhibit 14

TracFone's SafeLink Wireless® Lifeline Offerings

State	Monthly Minutes
Alabama	68
Connecticut	64
D.C.	55
Delaware	68
Florida	68
Georgia	68
Illinois	60
Louisiana	68
Maine	68
Maryland	64
Massachusetts	80
Michigan	68
Missouri	68
Nevada	60
New Hampshire	68
New Jersey	68
New York	68
North Carolina	68
Ohio	68
Pennsylvania	68
Puerto Rico	68
South Carolina	68
Tennessee	68
Texas	68
Virginia	68
West Virginia	68
Wisconsin	60

15. Why does the number of subsidized minutes determined for each state differ? Please detail how the number of minutes for subsidized services was determined in other states where the number of subsidized minutes is more or less than that determined for Oregon.

Response

TracFone determines the amount of Lifeline benefits by calculating the Lifeline support it will receive from the federal Universal Service Fund. Assuming that the federally-mandated Subscriber Line Charge (SLC) in a state is \$6.50 -- the maximum allowable SLC pursuant to the FCC's rules, TracFone would receive \$10.00 of Lifeline support pursuant to the FCC's rules. This amount is calculated as follows: Tier One support (\$6.50) plus Tier Two (\$1.75) plus Tier Three (\$1.75, conditioned on the ETC providing an additional \$3.50 Lifeline benefit from its own resources). In states where TracFone receives \$10.00, it calculates the Lifeline benefit by adding \$3.50 to the \$10.00 (totaling \$13.50). TracFone then divides the Lifeline benefit by \$0.20 -- its standard per minute rate for service -- and then rounds that result up to the next full minute. That results in a total Lifeline benefit of 68 minutes per month ($\$13.50/\$0.20 = 67.5$).

TracFone calculates the Lifeline benefit at a statewide level based upon a weighted average of the SLCs of the ILECs in each state. As a result, TracFone provides a uniform Lifeline benefit throughout each state in which it provides Lifeline service, even though the amount of available Tier One support may vary within the state. However, the number of Lifeline minutes provided each month can vary across states. In states in which the weighted average SLC is less than \$6.50, the number of free monthly minutes is lower than 68. The number of monthly minutes is greater than 68 in states that require an ETC to provide additional discounts to Lifeline customers. For example, in Massachusetts, TracFone provides 80 minutes each month because in Massachusetts

TracFone must provide an additional \$6.00 Lifeline benefit from its own resources to be entitled to receive the full federal Lifeline reimbursement of \$10.00. Therefore, in Massachusetts, TracFone provides a Lifeline benefit of \$16.00, which results in a Lifeline subscriber receiving 80 minutes each month ($\$16.00/\$0.20 = 80$). In all states, TracFone passes through the complete amount of federal USF funding it receives to its Lifeline customers in the form of free minutes or wireless airtime.

16. What percentage of the outgoing calling minutes of TracFone's current SafeLink customers are to 1) interstate destinations and 2) international destinations?

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq. TracFone further objects that the information sought by this data request is highly confidential, proprietary, and commercially sensitive.

17. What is the overall average monthly usage (in minutes) for SafeLink customers in each state in which the company operates, including minutes that are purchased beyond the free minutes?

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq. TracFone further objects that the information sought by this data request is highly confidential, proprietary, and commercially sensitive.

18. For TracFone's non-SafeLink customers in the US, what are the average monthly minutes of use per handset for: a) voice service, and b) all services (including data)?

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq. This information solely relates to TracFone's non-Lifeline service, which is not the subject of this proceeding. TracFone also objects that this request is beyond the jurisdiction of the Commission in that it seeks information regarding TracFone's services that are not subject to the regulatory authority of the Commission. Section 759.036 of the Oregon Revised Statutes provides the Commission with authority to regulate "telecommunications services". However, Section 759.005(8)(a) specifically excludes radio common carriers, such as TracFone, from the definition of telecommunications services. TracFone further objects that the information sought by this data request is highly confidential, proprietary, and commercially sensitive.

19. What is the average wholesale cost per minute that TracFone pays to the carriers whose wireless service it resells?

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq. TracFone further objects that the information sought by this data request is highly confidential and commercially sensitive. The prices paid by TracFone to its underlying vendors are the result of arm's length commercial negotiations between TracFone and those vendors. Those rates are not subject to regulation at either the federal or state level. Moreover, TracFone's underlying carriers do not permit TracFone to disclose this information even pursuant to a protective order.

20. Please identify all contacts that TracFone's employees, consultants, or representatives have made with legislators, Native American tribes, special interest groups, government agencies, or other entities regarding support for TracFone's ETC application in Oregon. Please specify the individual or group contacted, the TracFone representative involved, and the date of such contact. Also provide a short summary of the information conveyed as well as a copy of any written material shared with the entity.

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq.

21. Please describe each calling plan that TracFone offers, including Net10, Straight Talk and others, addressing rates, terms, and various means by which customers purchase, obtain, and continue service. Also indicate which plans are priced on a monthly basis.

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq. Without waiving its objection, a description of the calling plans offered under TracFone's brand names was provided as Exhibit 24 in response to Commission Staff's data request DR-24 and is attached to this Response as Exhibit 21. Additional information about TracFone's service plans are available at its website (www.tracfone.com).

Exhibit 21



Search TracFone

my account register español

NO BILLS NO CONTRACTS NO SURPRISES YOU'RE IN CONTROL

ACTIVATE / REACTIVATE PHONE

BUY AIRTIME

ADD AIRTIME

BUY PHONES AND MORE

TRACFONE PROGRAMS

SERVICE & SUPPORT

Please make your Value Plan selection, and then click on the Enroll button at the bottom right of the screen.

Individual Plan: It's one of the lowest priced monthly plans in the market today! Automatically receive Minutes on your TracFone every month! It's easy, convenient and at a great price.

50 Minutes Value Plan
\$9.99 / month
[View Details](#)

125 Minutes Value Plan
\$18.99 / month
[View Details](#)

200 Minutes Value Plan
\$29.99 / month
[View Details](#)

Family Plan: Take advantage of one of the lowest priced monthly plans on the market for your entire family and save! Automatically receive Minutes for every TracFone in your home every month.

Family Value Plan
First Phone- 50 Minutes
\$9.99* / month
Each Additional Phone -40 Minutes
\$5.99 / month
[View Details](#)

TracFone Service Protection Plan: Enroll today and automatically receive a 30-day service extension when you need it most! Enrollment is FREE! You pay the \$5.99 fee only if you reach your Service End Date.

30 Service Days
\$5.99** / as needed
[View Details](#)

ENROLL

As a Value Plan member you can buy Minutes in bundles of 50 or 100 MINUTES whenever you want!

ADD A MINUTES BUNDLE!

Compare the value plan benefits

*Enroll the first TracFones for \$9.99/mo and each additional TracFone in the Family Value Plan (up to four) is just \$5.99 / mo.

**With the TracFone Service Protection Plan a 30 day service extension is granted every time a customer is Past Due. The \$5.99 fee for the service is only charged if the customer reaches the Service End Date. Customers already enrolled in Service Protector (previously called Lifetime Plan) will continue paying the original price of \$4.99/mo each time they are Past Due.

[Terms and Conditions](#) [Value Plan FAQ](#)



THE CELL PHONE THAT PUTS YOU IN CONTROL

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NO BILLS NO CONTRACTS NO SURPRISES YOU'RE IN CONTROL

[ACTIVATE / REACTIVATE PHONE](#)

[BUY AIRTIME](#)

[ADD AIRTIME](#)

[BUY PHONES AND MORE](#)




[TRACFONE PROGRAMS](#)

[SERVICE & SUPPORT](#)





BUY AIRTIME

Select Option Check Out Transaction Summary

One Year and Double Minute Cards

	<p>Double Minutes for the Life of your TracFone 365 Days of Service 800 minutes</p> <p>only \$119.99</p> <p>Quantity: <input type="text"/></p> <p><small>LIMITED TIME OFFER: Buy our Double Minute for Life + 1 Year Card for only \$119.99 (regular price \$ 139.99) and get Double Minutes on all future cards. These minutes have already been doubled for your convenience*</small></p>
	<p>400 Minutes & 365 Days of Service</p> <p>only \$99.99</p> <p>Quantity: <input type="text"/></p>
	<p>Double Minutes for Life Card 0 Minutes & 0 Days of Service</p> <p>only \$19.99</p> <p>Quantity: <input type="text"/></p> <p><small>LIMITED TIME OFFER: Buy our Double Minute for Life Card for only \$19.99 (regular price \$49.99) and get Double Minutes on all future Airtime Cards with the exception of our One year + Double Minutes Card*</small></p>

Pay As You Go

	<p>450 Minutes & 90 Days of Service</p> <p>only \$79.99</p> <p>Quantity: <input type="text"/></p>
	<p>200 Minutes & 90 Days of Service</p> <p>only \$39.99</p> <p>Quantity: <input type="text"/></p>
	<p>120 Minutes & 90 Days of Service</p> <p>only \$29.99</p> <p>Quantity: <input type="text"/></p>
	<p>60 Minutes & 90 Days of Service</p> <p>only \$19.99</p> <p>Quantity: <input type="text"/></p>

Web Exclusives



PowerPlus Card
1500 MINUTES &
365 DAYS OF SERVICE

only **\$199.99**
Quantity

EXCLUSIVE



1000 Minutes &
30 Days of Service

only **\$149.99**
Quantity

EXCLUSIVE



30 Minutes &
30 Days of Service

only **\$9.99**
Quantity

EXCLUSIVE

Promotional Code (Optional)

Purchase Selection

If you have a Promotional Code code that you would like to use at this time, please enter it below. (OPTIONAL)

Minutes: 000

Price: \$0.00

[HELP](#)

(Only one Promotional Code per transaction)

*Eligible Promotional Minutes will be added at the end of this transaction.

Now, please enter the information requested below:

TracFone Telephone Number

[HELP](#)

OR

Serial Number (also called IMEI)

[HELP](#)

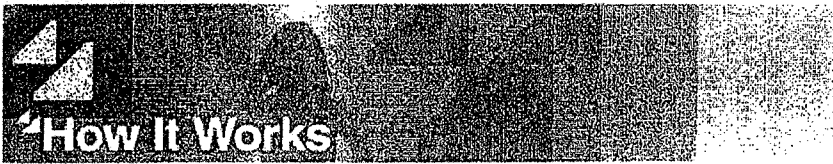


Purchase and use of TRACFONE Prepaid Wireless Airtime is subject to the [Terms and Conditions of Service](#). TRACFONE Prepaid Wireless Airtime cards have no cash redemption value. Airtime rate plans are subject to change without prior notice. All sales of airtime are final. No refunds will be given.

New Airtime card price reductions and extended days of service are currently being tested in order to deliver the combinations that best suit your needs. These offers are for a limited time and cannot be combined with any other offer or promotion.

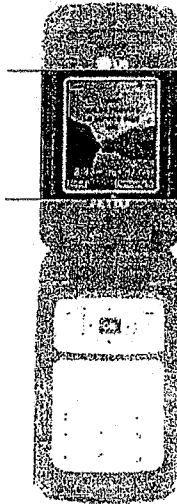
*The Double Minute benefit does not apply to minutes that have not been purchased, such as bonus minutes provided with a special TracFone promotional code or bonus minutes automatically added to the TracFone. The 800 minutes included with the One Year + Double Minute card will not double. The Double Minute benefit may only be added once, only applies to one TracFone cell phone and may not be transferred to another TracFone.





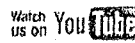
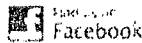
Let's get Started!

- 1 Buy and activate your NET10 phone.
On the web or by calling 1-877-TEN-CENT (1-877-836-2368).
- 2 Buy Airtime as you need it.
When you need more Minutes, you can buy Airtime Cards on the web, in one of our retail locations or by calling 1-877-TEN-CENT (1-877-836-2368).
Buy and add an Airtime Card before the Service end Date displayed on your phone screen to keep your NET10 service active.
- 3 Call anywhere, anytime for only 10¢ per minute and text messaging is only 5¢ a message.



Track your Minutes

- Gives you the power, not the phone company.
- Displays exact airtime balance.
- Reminds you when a NET10 Airtime card must be added
- Minutes carry over with active service.
- Minutes expire with service deactivation.





[My Account](#)

[Register](#)



[Español](#)

Please make your Monthly Plan selection, and then click on the Enroll button at the bottom right of the screen.

EASY MINUTES is the easy way to enjoy Automatic Monthly wireless service for 10¢ per minute, without signing an annual contract or paying hidden fees.

150 Easy Minutes Plan
\$15 / month
[View Details](#)

250 Easy Minutes Plan
\$25 / month
[View Details](#)

400 Easy Minutes Plan
\$40 / month
[View Details](#)

ENROLL

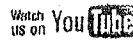
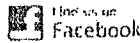
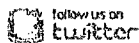
As an Easy Minutes member you can buy Minutes in bundles of 50, 100, or 150 MINUTES whenever you want! If you are a NET10 Unlimited member, you have the option of selecting a 50 or 100 UNLIMITED Minute Bundles.

ADD A MINUTES BUNDLE!

[Easy Minutes Terms and Conditions](#)

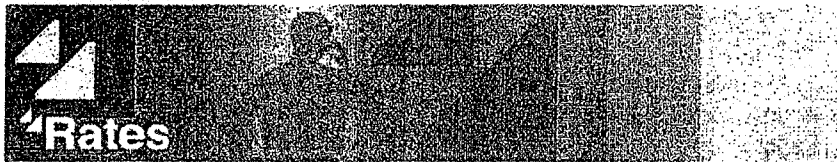


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Local, Long Distance or Roaming

200 minutes



This card adds 30 days of service to your service end date

Price:\$20

[Buy Now](#)

300 minutes



This card adds 60 days of service to your service end date

Price:\$30

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600 minutes



This card adds 60 days of service to your service end date

Price:\$45

[Buy Now](#)

900 minutes



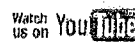
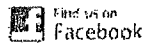
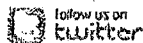
This card adds 90 days of service to your service end date

Price:\$60


[Buy Now](#)


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HOW IT WORKS
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Service Plan

	ALL YOU NEED	UNLIMITED 1 MONTH	UNLIMITED 3 MONTHS	UNLIMITED 6 MONTHS	UNLIMITED 1 YEAR
PRICE	\$30	\$45	\$135	\$270	\$540
SERVICE DAYS	30 Days	30 Days	90 Days	180 Days	365 Days
MINUTES	1,000 Nationwide	Unlimited Nationwide	Unlimited Nationwide	Unlimited Nationwide	Unlimited Nationwide
TEXT OR PICTURE MESSAGES	1,000 Nationwide	Unlimited Nationwide	Unlimited Nationwide	Unlimited Nationwide	Unlimited Nationwide
MOBILE WEB ACCESS	30 MB	Unlimited	Unlimited	Unlimited	Unlimited
CALL TO 411	Included at no extra charge	Unlimited	Unlimited	Unlimited	Unlimited
CONTRACTS	No	No	No	No	No
AUTO REFILL OPTION	Yes	Yes	Yes	Yes	Yes

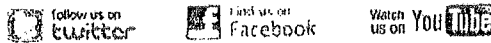


NEED TO ACTIVATE & PURCHASE A PLAN
[CLICK HERE](#)



NEED TO REFILL YOUR CURRENT ACCOUNT
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 All other trademarks, service marks, and trade names referenced in this site are the property of their respective owners.

22. In its ETP application, TracFone listed [CONFIDENTIAL] residential, business and tribal customers that TracFone provides services to in Oregon. How many of these customers subscribe to: 1) Net10, 2) StraightTalk, and 3) other TracFone plans?

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq. This information solely relates to TracFone's non-Lifeline service, which is not the subject of this proceeding. TracFone also objects that this request is beyond the jurisdiction of the Commission in that it seeks information regarding TracFone's services that are not subject to the regulatory authority of the Commission. Section 759.036 of the Oregon Revised Statutes provides the Commission with authority to regulate "telecommunications services". However, Section 759.005(8)(a) specifically excludes radio common carriers, such as TracFone, from the definition of telecommunications services. TracFone further objects that the information sought by this data request is highly confidential, proprietary, and commercially sensitive.

23. Relative to TracFone's response to Staff DR 10: What is the average wholesale cost to TracFone of each type of handset given to SafeLink customers?

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq. TracFone further objects that the information sought by this data request is highly confidential and commercially sensitive. TracFone's arrangements with vendors of handsets which it purchases to provide to customers are the result of arm's length commercial negotiations between TracFone and those handset vendors. Moreover, TracFone's handset manufacturers do not permit TracFone to disclose this information even pursuant to a protective order.

24. Please provide any and all previous "Confidential" responses to Staff DRs 1-39, and Staff DRs 40 - 98, once the Company's responses to those DRs are produced, in accordance with Protective Order 10-189, to which CUB is a signatory.

Response

TracFone will provide to CUB all confidential responses to Staff DRs 1-39 and 40-98 that TracFone provides pursuant to the terms of Protective Order 10-189. To date, TracFone has not provided any confidential responses to Staff DRs 1-39 and 40-98 pursuant to the terms of Protective Order 10-189.

CERTIFICATE OF SERVICE

I hereby certify that I have this 23rd day of July, 2010, served the foregoing TRACFONE WIRELESS, INC.'S RESPONSES TO CITIZENS' UTILITY BOARD OF OREGON'S DATA REQUESTS 4-24 upon all parties of record in this proceeding by causing a copy to be sent by electronic mail and U.S. mail to the following addresses (as indicated below):

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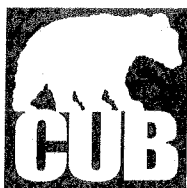
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By 
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July 20th, 2010

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MITCHELL F BRECHER
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WASHINGTON, DC 20037

Re: UM 1437 Data Request 25 – 35

Please send responses to the following data requests to Gordon Feighner at gordon@Oregoncub.org, or, for confidential material, at the address above. **Note that all responses to requests submitted in this docket must be submitted within 7 business days.** Please assume that these are on-going requests if any additional information becomes available during the pendency of the case it must be provided.

If you have any questions, please call us at (503) 227-1984.

Please provide responses electronically only, and in the original electronic format.

25. If a prepaid wireless customer has no minutes remaining on their account, what happens when someone calls them?
26. If a prepaid wireless customer has no minutes remaining on their account, is that phone still able to call 911?
27. Is there a maximum number of rollover minutes that can be accrued on a SafeLink account?
28. According to the SafeLink Terms and Conditions of Service, customers must have their phones on for the first few days of each month to receive their free minutes. If customers do not have their phones on, they will need to “self-retrieve” their free minutes. For each state where SafeLink services are currently offered, please provide the following:
 - a. For the most recent 12 month period where data is available, please provide the number of customers each month that did not automatically receive their free minutes because the phone was not turned on during the first few days of

- the month. What percentage of overall SafeLink customer in that state does this represent?
- b. Of these customers, how many do not then self-retrieve these free minutes?
 - c. Of the customers who do not receive their free minutes in the beginning of the month, and do not self-retrieve, how many contact TracFone customer service to request their free minutes?
29. According to the Terms and Conditions, a customer will be charged at least 1 minute for any call that goes to a link that is busy or has no answer. Is this correct?
30. According to the Terms and Conditions, TracFone is allowed to pursue liquidated damages in the amount of not less than \$5,000 for each phone that is sold by the customer.
- a. How many times has TracFone sought liquidated damages from a customer?
 - b. In how many of these cases did TracFone successfully recover damages from a customer?
31. TracFone highlights the work of Keep USF Fair on its NET 10 website. Keep USF Fair refers to TracFone's support for a "by the minute" proposal for USF.
- a. Please provide a copy of the "by the minute" proposal for USF which TracFone supports.
 - b. How would TracFone contribute to the federal USF under this proposal?
32. Consumer websites (blogs, forums, etc.) list complaints about TracFone's and Safelink's service quality. Most frequently mentioned are particularly long holds for customer service representatives and the difficulty customers have in getting broken phones replaced.
- a. What metrics does TracFone use to record and analyze its customer service performance? Please provide those metrics for the most recently available 24 month period.
 - b. What is the average length of time that a customer is likely to be on hold with the TracFone customer service center before that customer is able to talk to a live representative?
 - c. What percentage of calls to the TracFone customer service center last more than 30 minutes?
 - d. How many complaints does TracFone receive each year concerning broken phones?
 - e. What is the average amount of time that a customer must wait before receiving a replacement phone?

33. Has TracFone ever been reprimanded or faced penalties for not achieving customer service standards in any of the states in which it operates?
34. What actions are currently being taken by TracFone to improve the quality of customer service?
35. Please provide responses to Staff Data Requests 100-113.

Thank you for your prompt attention to these requests.

Sincerely,

A handwritten signature in black ink, appearing to read 'G R F', followed by a horizontal line extending to the right.

Gordon Feighner
Utility Analyst
Citizens' Utility Board of Oregon
610 SW Broadway Ste 308
Portland, OR 97205
(503) 227-1984
gordon@oregoncub.org

Before the
PUBLIC UTILITY COMMISSION OF OREGON

DOCKET UM 1437

In the Matter of)
)

TRACFONE WIRELESS, INC.)
)

Application for Designation as an Eligible)
Telecommunications Carrier.)
_____)
)

**TRACFONE WIRELESS,
INC.'S RESPONSES TO
CITIZENS' UTILITY BOARD
OF OREGON'S DATA
REQUESTS 25-35**

TracFone Wireless, Inc. ("TracFone") provides the following responses to Citizens' Utility Board of Oregon's Data Requests 25-35.

Respectfully submitted,



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(503) 727-2107

Mitchell F. Brecher
Debra McGuire Mercer
GREENBERG TRAURIG, LLP
2101 L Street, NW
Suite 1000
Washington, D.C. 20037
(202) 331-3100

Counsel for TracFone Wireless, Inc.

July 29, 2010

25. If a prepaid wireless customer has no minutes remaining on their account, what happens when someone calls them?

Response

The call does not get connected.

26. If a prepaid wireless customer has no minutes remaining on their account, is that phone still able to call 911?

Response

Yes. The phone can always be used to call 911, provided that the phone's battery is charged.

27. Is there a maximum number of rollover minutes that can be accrued on a SafeLink account?

Response

No.

28. According to the SafeLink Terms and Conditions of Service, customers must have their phones on for the first few days of each month to receive their free minutes. If customers do not have their phones on, they will need to “self-retrieve” their free minutes. For each state where SafeLink services are currently offered, please provide the following:
- a. For the most recent 12 month period where data is available, please provide the number of customers each month that did not automatically receive their free minutes because the phone was not turned on during the first few days of the month. What percentage of overall SafeLink customer in that state does this represent?
 - b. Of these customers, how many do not then self-retrieve these free minutes?
 - c. Of the customers who do not receive their free minutes in the beginning of the month, and do not self-retrieve, how many contact TracFone customer service to request their free minutes?

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier in Oregon. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission’s rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq.

29. According to the Terms and Conditions, a customer will be charged at least 1 minute for any call that goes to a link that is busy or has no answer. Is this correct?

Response

The terms and conditions provide: "For outbound calls, you may be charged airtime for incomplete and/or busy-no answer calls." However, it is TracFone's policy not to deduct minutes of use for uncompleted calls or for calls which receive busy signals.

30. According to the Terms and Conditions, TracFone is allowed to pursue liquidated damages in the amount of not less than \$5,000 for each phone that is sold by the customer.

- a. How many times has TracFone sought liquidated damages from a customer?
- b. In how many of these cases did TracFone successfully recover damages from a customer?

Response

- a. TracFone has not sought liquidated damages from any of its customers.
- b. Not applicable.

31. TracFone highlights the work of Keep USF Fair on its NET 10 website. Keep USF Fair refers to TracFone's support for a "by the minute" proposal for USF.
- a. Please provide a copy of the "by the minute" proposal for USF which TracFone supports.
 - b. How would TracFone contribute to the federal USF under this proposal?

Response

- a. See Exhibit 31.
- b. The "by the minute" proposal was presented to the FCC as an alternative to a numbers-based USF contribution methodology. The "by the minute" USF contribution method would apply only to pay-as-you-go prepaid wireless service for which there is no direct, monthly billing relationship between a carrier and the end user. If a numbers-based USF contribution methodology number fee was adopted, under TracFone's "by the minute" proposal the number fee (e.g., \$1.00 per working number each month) would be divided by the CTIA-reported average wireless customer usage (e.g., 800 minutes per month) to calculate a per minute USF fee. In this example, the per minute USF fee would be \$0.00125 per minute (\$1.00 divided by 800). The prepaid wireless carrier would be assessed USF contributions by taking the total number of prepaid minutes times the per minute factor. AT&T, Verizon, and CTIA have indicated their support for TracFone's "by the minute" proposal.

Exhibit 31

TracFone Wireless, Inc.

Prepaid Wireless "By the Minute" USF Contribution Proposal

June 13, 2007

- "Pay-as-you-go" prepaid wireless services that do not have a direct monthly billing relationship with end users should not be subject to a flat, monthly USF fee based on working telephone numbers, connections or similar method.
- A monthly per number charge of \$1.00¹ would substantially increase TracFone's USF contribution requirements. A number fee would disproportionately burden low volume prepaid wireless services and would not be competitively neutral.
- TracFone's "pay-as-you-go" customers are both lower-volume and lower-income consumers. Approximately 50% of TracFone's customers report incomes of \$25,000 or less. On average, TracFone customers use less than 80 minutes of service per month. Only about 11 of these minutes are interstate calls (less than 14%).
- Others have recognized that a numbers-based plan would not be appropriate for prepaid wireless service providers and their consumers. On March 3, 2006, Verizon Communications and Verizon Wireless filed the following recommendation with the Commission:

It is more difficult for prepaid wireless providers to pass through a monthly per number assessment because they do not send monthly bills to customers. Since prepaid wireless customers do not buy service by the month but instead buy blocks of minutes, often in low amounts, a per-month assessment is infeasible. The FCC should either preserve the current revenues-based assessment for prepaid wireless, or adopt a per-number assessment that reflects the unique characteristics of this service.

[Letter from Kathleen Grillo, Vice President, Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, FCC, Docket 96-45, filed March 3, 2006, at 3]

¹ A coalition of major carriers lobbying for the number plan estimates "the per-number fee would likely be no higher than \$1.20 per month." Unless fund growth is restrained, the actual fee could be higher.

- The Boucher – Terry USF Bill (H.R. 2054) currently contains a Low-Volume Carrier provision that states:

(C) LOW VOLUME EXCEPTION.—The Commission shall not materially increase the contributions of communications service providers whose customers typically make a low volume of calls on a monthly basis.

- Senator Steven’s USF bill (S. 101) contains a similar Low-Volume Carrier provision:

(C) ADJUSTMENTS.—The Commission shall adjust the contribution for communication service providers for their low-call volume, non-business customers.

- If the Commission is going to adopt a numbers-based USF contribution methodology, TracFone urges the Commission to consider the following alternative methodology for “pay-as-you-go” prepaid wireless:

- This alternative USF contribution method would apply only to pay-as-you-go prepaid wireless service for which there is no direct, monthly billing relationship between a carrier and the end user.
- The newly adopted number fee would be converted to a “by the minute fee” for this class of service.

- Assume the new number fee is \$1.00 per working number each month.
- Assume that the CTIA reports the average wireless customer usage as 800 minutes per month.
- The per minute USF fee would be calculated by dividing \$1.00 by 800, which equals \$0.00125 per minute.
- The prepaid wireless carrier would be assessed USF contributions by taking the total number of prepaid minutes times the per minute factor (\$0.00125 in this example).

- Under this approach, the USF assessment applicable to a prepaid wireless customer using the same number of minutes per month as the average postpaid wireless customer would be the same, i.e., \$1.00 for 800 minutes of use.

- While the postpaid wireless customer would pay the \$1.00 fee as a surcharge on his or her monthly bill, in the case of prepaid wireless, the fee would be paid by the prepaid service provider, because there is no billing relationship between the prepaid carrier and the customer.

This approach is fair, equitable, non-discriminatory and competitively neutral and would be a good option in the event that the FCC decides to move USF Contributions to a "numbers-based" system.

* * * * *

32. Consumer websites (blogs, forums, etc.) list complaints about TracFone's and Safelink's service quality. Most frequently mentioned are particularly long holds for customer service representatives and the difficulty customers have in getting broken phones replaced.
- a. What metrics does TracFone use to record and analyze its customer service performance? Please provide those metrics for the most recently available 24 month period.
 - b. What is the average length of time that a customer is likely to be on hold with the TracFone customer service center before that customer is able to talk to a live representative?
 - c. What percentage of calls to the TracFone customer service center last more than 30 minutes?
 - d. How many complaints does TracFone receive each year concerning broken phones?
 - e. What is the average amount of time that a customer must wait before receiving a replacement phone?

Response

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier in Oregon. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq.

33. **Has TracFone ever been reprimanded or faced penalties for not achieving customer service standards in any of the states in which it operates?**

Response

No.

34. What actions are currently being taken by TracFone to improve the quality of customer service?

Response

TracFone continually reviews the performance of its customer service department and makes any necessary changes to ensure that calls are answered and issues resolved in a prompt and professional manner.

35. Please provide responses to Staff Data Requests 100-113.

Response

TracFone has provided CUB with its responses to Staff Data Requests 100-113.

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of July, 2010, served the foregoing TRACFONE WIRELESS, INC.'S RESPONSES TO CITIZENS' UTILITY BOARD OF OREGON'S DATA REQUESTS 25-35 upon all parties of record in this proceeding by causing a copy to be sent by electronic mail and U.S. mail to the following addresses (as indicated below):

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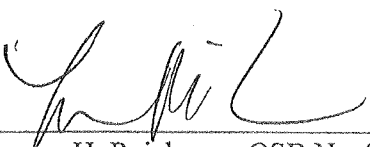
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July 27th, 2010

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WASHINGTON, DC 20037

Re: UM 1437 Data Request 36 – 40

Please send responses to the following data requests to Gordon Feighner at gordon@Oregoncub.org, or, for confidential material, at the address above. **Note that all responses to requests submitted in this docket must be submitted within 7 business days.** Please assume that these are on-going requests if any additional information becomes available during the pendency of the case it must be provided.

If you have any questions, please call us at (503) 227-1984.

Please provide responses electronically only, and in the original electronic format.

36. Does TracFone attempt to call SafeLink customers who are about to have their service deactivated?
37. If TracFone customer service representatives attempt to call a SafeLink customer who is about to be deactivated, and the customer answers, does this count as activity for that account, thereby reclassifying it as an active account?
38. If TracFone customer service representatives attempt to call a SafeLink customer who is about to be deactivated, and the customer does not answer and the call goes to voicemail, does this count as activity for that account, thereby reclassifying it as an active account?
39. Refer to TracFone's response to Staff DR 67. Please provide all of the quarterly reports submitted to the Ohio and Wisconsin PUCs since TracFone began providing SafeLink service in those jurisdictions.

40. On a state by state basis, for as long as TracFone has provided SafeLink service in each jurisdiction, please provide the actual number of, and percentage of, SafeLink customers who never receive additional minutes after their first month of service, no matter the reason.

Thank you for your prompt attention to these requests.

Sincerely,

A handwritten signature in black ink, appearing to read 'G R F', with a horizontal line extending to the right.

Gordon Feighner
Utility Analyst
Citizens' Utility Board of Oregon
610 SW Broadway Ste 308
Portland, OR 97205
(503) 227-1984
gordon@oregoncub.org



Citizens' Utility Board of Oregon

610 SW Broadway, Suite 308
Portland, OR 97205
(503) 227-1984 • fax (503) 274-2956 • cub@oregoncub.org • www.oregoncub.org

July 28th, 2010

DEBRA MCGUIRE MERCER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000
WASHINGTON, DC 20037

MITCHELL F BRECHER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000
WASHINGTON, DC 20037

Re: UM 1437 Data Request 41

Please send responses to the following data requests to Gordon Feighner at gordon@Oregoncub.org, or, for confidential material, at the address above. **Note that all responses to requests submitted in this docket must be submitted within 7 business days.** Please assume that these are on-going requests if any additional information becomes available during the pendency of the case it must be provided.

If you have any questions, please call us at (503) 227-1984.

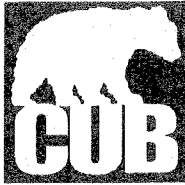
Please provide responses electronically only, and in the original electronic format.

41. Please provide copies of TracFone's responses to Staff DRs 115-118.

Thank you for your prompt attention to these requests.

Sincerely,

Gordon Feighner
Utility Analyst
Citizens' Utility Board of Oregon
610 SW Broadway Ste 308
Portland, OR 97205
(503) 227-1984
gordon@oregoncub.org



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WASHINGTON, DC 20037

MITCHELL F BRECHER
GREENBERG TAURIG, LLP
TRACFONE WIRELESS, INC
2101 L STREET, NW, SUITE 1000
WASHINGTON, DC 20037

Re: UM 1437 Data Request 42 – 45

Please send responses to the following data requests to Gordon Feighner at gordon@Oregoncub.org, or, for confidential material, at the address above. **Note that all responses to requests submitted in this docket must be submitted within 7 business days.** Please assume that these are on-going requests if any additional information becomes available during the pendency of the case it must be provided.

If you have any questions, please call us at (503) 227-1984.

Please provide responses electronically only, and in the original electronic format.

42. Calls made by CUB staff to TracFone's SafeLink customer service line (1.800.378.1684) on the morning of July 28, 2010, received a message saying that due to the high volume of calls, the line was not currently accepting calls, and advised to call back later. Does TracFone keep track of how many calls to the customer service line receive this message? If so, please provide the actual number of calls that receive the message and the percentage of calls that receive the message.
43. TracFone's response to Staff DR 53 claims that calls to the SafeLink customer service line are answered within 1 minute, on average. Does this mean that calls are answered by the automated menu system within 1 minute?
44. What is the average length of time callers to the SafeLink customer service line are on hold once they choose a menu option that leads to a live customer service representative?

45. If a customer does not receive SafeLink minutes one month (due to the phone not being turned on or for any other reason), but the customer remains active, does that customer automatically receive SafeLink minutes the next month?

Thank you for your prompt attention to these requests.

Sincerely,

A handwritten signature in black ink, appearing to read 'G R F', followed by a horizontal line extending to the right.

Gordon Feighner
Utility Analyst
Citizens' Utility Board of Oregon
610 SW Broadway Ste 308
Portland, OR 97205
(503) 227-1984
gordon@oregoncub.org

UM 1437

In the Matter of
TRACFONE WIRELESS, INC. Application
for Designation as an Eligible
Telecommunications Carrier.

) Citizens' Utility Board of Oregon's Motion
) to Compel Tracfone to Respond to CUB's
) Data Requests and for Additional Time to
) Analyze and File Supplemental Testimony
) Related to Any Additional Information
) Provided
) **Expedited Review Requested**

EXHIBIT A

Attachment 5

From: Reichman, Lawrence (Perkins Coie) [LReichman@perkinscoie.com]
Sent: Friday, July 30, 2010 2:58 PM
To: Catriona McCracken
Cc: Bob Jenks; Gordon Feighner; Ray Myers; Kevin Parks; BRECHERM@gtlaw.com; mercerdm@gtlaw.com
Subject: RE: UM 1437

Catriona,

I have marked our responses below. In view of your move, I will be hand-delivering supplemental responses as indicated to you this afternoon.

Thanks,
Larry

Lawrence Reichman | Perkins Coie LLP

1120 N.W. Couch Street

Tenth Floor

Portland, OR 97209-4128

PHONE: 503.727.2019

FAX: 503.346.2019

E-MAIL: LReichman@perkinscoie.com

From: Catriona McCracken [mailto:Catriona@oregoncub.org]
Sent: Thursday, July 29, 2010 1:35 PM
To: Reichman, Lawrence (Perkins Coie)
Cc: Bob Jenks; Gordon Feighner; Ray Myers; Kevin Parks
Subject: RE: UM 1437

Larry:

Here is the full list of the Data Requests for which CUB objects to Tracfone's responses and requests supplemental responses:

CUB DR 4 - CUB believes that the information requested is relevant to any determination as to the Company's health now and in the future and whether this transaction is in the public interest

TracFone will provide a supplemental response this afternoon including the current, total number of customers it has in Oregon. TracFone does not have any estimates/forecasts as you have requested.

CUB DR 5 - See prior email. It matters not what you called your "study", "estimate", "goal", "projection" the information is relevant and should be provided otherwise CUB will be forced to file testimony stating that the Company has not done the necessary due diligence

TracFone has fully responded to this DR. See above.

CUB DR 6 - same as 5 above

TracFone has fully responded to this DR. See above.

CUB DR 7 - How and what Tracfone pays is highly relevant to whether this transaction is in the public interest for Oregon

TracFone stands on its objection.

CUB DR 16 – This information is necessary to determine how universal service funds are being used

TracFone will provide a supplemental response including this information this afternoon.

CUB DR 17 - CUB believes that the information requested is highly relevant to the ability of the Commission to make a public interest determination for Oregon

TracFone will provide a supplemental response including this information (averaged for all states) this afternoon.

CUB DR 18 - CUB believes that the information requested is highly relevant to the ability of the Commission to make a public interest determination

TracFone stands on its objection.

CUB DR 19 – The financial health of Tracfone is relevant to the ability of the Commission to make a public interest determination

TracFone stands on its objection.

CUB DR 20 – What Tracfone has told everyone about its plans for Oregon is highly relevant to the ability of the Commission to make a public interest determination

We have provided Staff with a supplemental response to this identical request and also provided that to CUB.

CUB DR 21 – How Tracfone runs its other services is relevant to its business model and whether that model is in the public interest of the Oregon customer.

TracFone has fully responded to this DR.

CUB DR 22 – How Tracfone runs its other services is highly relevant to its business model and whether that model is in the public interest of the Oregon customer.

This appears to be duplicative of DR 4. See response above.

CUB DR 23 - The current and future financial health of Tracfone is highly relevant to whether this project is in the public interest

TracFone stands on its objection.

CUB DR 24 – CUB is still waiting for confidential and highly confidential information to be provided to CUB – see my prior email.

See responses to DR 4, 16, and 17 above. DR 16 and 17 are the same as Staff 8 and 9.

CUB is still waiting for responses to:

CUB DRs 25-35 responses due today

You have these now.

CUB DRs 36-40 responses due Aug 9 – obviously it would be helpful if you can respond to these prior to our time for filing testimony

CUB DR 41 responses due Aug 10 – obviously it would be helpful if you can respond to this prior to our time for filing testimony

TracFone will respond to these additional requests in a timely manner.

Catriona

G. Catriona McCracken
Legal Counsel
Citizens' Utility Board of Oregon
610 SW Broadway, Suite 308
Portland, OR 97205
Tel: 503-227-1984
Fax: 503-274-2956
Email: catriona@oregoncub.org

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From: Reichman, Lawrence (Perkins Coie) [mailto:LReichman@perkinscoie.com]
Sent: Thursday, July 29, 2010 9:14 AM
To: Catriona McCracken
Subject: UM 1437

Catriona,

I received your voice mail yesterday. I think it would be more productive to have lead counsel on the call with you, which accounts for the delay in my getting back to you. We will call you as soon as we are able.

Thanks,
Larry

Lawrence Reichman | Perkins Coie LLP
1120 N.W. Couch Street
Tenth Floor
Portland, OR 97209-4128
PHONE: 503.727.2019
FAX: 503.346.2019
E-MAIL: LReichman@perkinscoie.com

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UM 1437 – CERTIFICATE OF SERVICE

I hereby certify that, on this 4th day of Aug., 2010, I served the foregoing **CITIZENS' UTILITY BOARD OF OREGON'S MOTION TO COMPEL TRACFONE TO RESPOND TO CUB'S DATA REQUESTS AND FOR ADDITIONAL TIME TO ANALYZE AND FILE SUPPLEMENTAL TESTIMONY RELATED TO ANY ADDITIONAL INFORMATION PROVIDED EXPEDITED REVIEW REQUESTED** in docket UM 1437 upon each party listed in the UM 1437 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending an original and 1 copy by U.S. mail, postage prepaid, to the Commission's Salem offices.

(W denotes waiver of paper service)

(C denotes service of Confidential material authorized)

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**PUBLIC UTILITY COMMISSION
OF OREGON
JON CRAY
550 CAPITOL ST NE, SUITE 215
SALEM OR 97301**

UM 1437 - Certificate of Service **CITIZENS' UTILITY BOARD OF OREGON'S MOTION TO COMPEL TRACFONE TO RESPOND TO CUB'S DATA REQUESTS AND FOR ADDITIONAL TIME TO ANALYZE AND FILE SUPPLEMENTAL TESTIMONY RELATED TO ANY ADDITIONAL INFORMATION PROVIDED. EXPEDITED REVIEW REQUESTED.**

**OREGON DEPARTMENT OF
JUSTICE**

STEVEN A WOLF
1162 COURT STREET NE
SALEM OR 97301-4096

Respectfully submitted,



Kevin E. Parks, OSB #096728
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UM 1437 - Certificate of Service CITIZENS' UTILITY BOARD OF OREGON'S
MOTION TO COMPEL TRACFONE TO RESPOND TO CUB'S DATA REQUESTS
AND FOR ADDITIONAL TIME TO ANALYZE AND FILE SUPPLEMENTAL
TESTIMONY RELATED TO ANY ADDITIONAL INFORMATION PROVIDED.
EXPEDITED REVIEW REQUESTED.