

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1437

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

**TRACFONE WIRELESS, INC.'S  
MOTION TO WAIVE COMMISSION  
RULE AND AMEND COMMISSION  
ORDER**

TracFone Wireless, Inc. (“TracFone”), by this Motion, respectfully requests the Commission, pursuant to Commission rule OAR 860-033-0001(2), to waive OAR 860-033-0010(2) which directs Eligible Telecommunications Providers (“ETPs”) to offer reduced rates on all basic telephone service offerings.<sup>1</sup> Commission rule OAR 860-033-0010(2) is the basis for a condition in Order No. 12-149, entered in this proceeding on May 2, 2012 (the “ETC Order”), that requires TracFone to offer Lifeline discounts on its NET10<sup>®</sup> service plans. Pursuant to ORS 756.568, TracFone also requests the Commission to amend Order No. 12-419 to delete the condition that TracFone offer Lifeline discounts on its NET10<sup>®</sup> service plans.

As further explained below, a waiver of OAR 860-033-0010(2) will not deny competitive choice to Lifeline-eligible, low-income Oregon residents. Moreover, no public interest purpose will be achieved nor any consumer benefit advanced by requiring that TracFone offer Lifeline discounts on NET10<sup>®</sup> service in Oregon. Lifeline-eligible Oregon households would not receive any greater value from a Lifeline discount on NET10<sup>®</sup> service than they would by enrolling in the SafeLink Wireless<sup>®</sup> Lifeline plans currently available to qualified low-income households. In addition, a requirement that TracFone offer Lifeline discounts on its NET10<sup>®</sup>

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<sup>1</sup> TracFone seeks a partial waiver of OAR 860-033-0010(2) that states, “An Eligible Telecommunications Provider must offer to all low-income customers who meet eligibility requirements OTAP discounts with all service offerings that include basic telephone service.”

service plans presents substantial financial and operational burdens for TracFone with no countervailing benefit to consumers.

## BACKGROUND

On August 7, 2009, TracFone applied to the Commission for designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214 of the Communications Act of 1934, as amended (47 U.S.C. § 214), so that it could offer Lifeline service to eligible low-income households in Oregon. TracFone filed an amended application on October 27, 2009. On April 9, 2010, TracFone filed a supplemental application seeking designation as an ETP under Oregon law so that it could offer services pursuant to the Oregon Telephone Assistance Program (“OTAP”). On January 7, 2011, TracFone filed a Second Amended Application that included testimony and exhibits in support of that application.

The following entities joined this proceeding as parties: the Citizens’ Utility Board of Oregon (“CUB”), Oregon Telecommunications Association (“OTA”), and the Oregon Office of Emergency Management (“OEM”). OTA subsequently requested to change its status from a party to an interested party. On June 10, 2011, TracFone filed a Stipulation on behalf of itself, Staff, CUB and OEM resolving all of the issues in the proceeding and supporting the grant of TracFone’s ETC and ETP application subject to certain conditions. In the ETC Order, the Commission adopted in part, and modified in part, the Stipulation and granted TracFone’s application for designation as an ETC and ETP subject to conditions. Among the conditions was a requirement that TracFone offer Lifeline discounts on its NET10<sup>®</sup> services “at the earliest practicable time following its designation as an ETC.”<sup>2</sup> The ETC Order states, in particular:

TracFone will offer its NET 10 service plans to Lifeline customers and will apply the federal Lifeline discount, as well as \$3.50 from TracFone, each month to the

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<sup>2</sup> See ETC Order, at 17 (quoting Stipulation, ¶ 28).

regular charges. TracFone will comply with the pro rata requirements in accordance with OAR 860-033-0035(2) for its NET 10 monthly service plans. Lifeline customers choosing NET 10 may be responsible for purchasing their own handset at the standard NET 10 price.

ETC Order, at 8.<sup>3</sup>

The condition that TracFone offer Lifeline discounts on its NET10<sup>®</sup> services arises from OAR 860-033-0010. That rule requires an ETP to “offer OTAP reduced rates or discounts with all service offerings that include basic telephone service.” The Commission noted in the ETC Order that TracFone will seek to offer Lifeline discounts to its NET10<sup>®</sup> and Straight Talk customers and that such offerings would substantially comply with OAR 860-033-0010.<sup>4</sup> Therefore, the Commission waived the requirement that Lifeline discounts be available for all service offerings that include basic telephone service with respect to any other prepaid cellular service offered by TracFone. By this Motion, TracFone asks the Commission to issue an order waiving OAR 860-033-0010(2) and amending Order No. 12-149 to relieve TracFone of the condition concerning NET10<sup>®</sup>.<sup>5</sup>

Specifically, TracFone requests that the Commission amend Order No. 12-149 as follows:

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<sup>3</sup> The ETC Order, dated May 2, 2012, adopted the parties’ Stipulation dated June 10, 2011. At the time of the Stipulation, under Federal Communications Commission (“FCC”) rules, the maximum amount of Lifeline support received by ETCs was \$10.00. However, receipt of that amount was conditioned on ETCs providing Lifeline customers with an additional \$3.50 Lifeline discount, resulting in a total Lifeline benefit of \$13.50. *See* 47 C.F.R. § 54.403 (2011). As of May 1, 2012, the standard amount of federal Lifeline support is \$9.25 for all ETCs, all of which must be passed through to Lifeline customers. *See* 47 C.F.R. § 54.401(a)(1) (2012). Given TracFone’s agreement to provide a Lifeline benefit equal to the amount of federal Lifeline support plus an additional \$3.50 funded by TracFone as noted in the ETC Order, the total Lifeline benefit in Oregon is now \$12.75.

<sup>4</sup> Regarding TracFone’s Straight Talk<sup>®</sup> service, the Commission stated as follows: “[w]hile TracFone has also agreed to enter into good faith negotiations with WalMart to offer Lifeline discounts on Straight Talk<sup>®</sup> service, we note that the ultimate agreement at reasonable terms may be beyond TracFone’s control. Accordingly, we decline to make a successful agreement to obtain Lifeline discounts on Straight Talk<sup>®</sup> services a condition of this order.” ETC Order, at 17. TracFone engaged in good faith negotiations with WalMart in an attempt to offer a Lifeline discount on Straight Talk<sup>®</sup> service, but the parties were unable to reach an agreement.

<sup>5</sup> Given that offering a Lifeline discount on Straight Talk<sup>®</sup> service was not a condition of the ETC Order, the proposed amendments to Order No. 12-149 also eliminate references to TracFone’s Straight Talk<sup>®</sup> service.

- Delete the following sentence on page 6: “In addition to its proposed Lifeline plans, TracFone also intends to make certain of its regular plans available with the Lifeline discounts, including NET 10 service and Straight Talk.”
- Delete the following phrase in the first sentence in Item 2.3, on pages 6-7: “– and, NET 10 and Straight Talk – to be offered soon thereafter.”
- Delete the following paragraph on page 8: “TracFone will offer its NET 10 service plans to Lifeline customers and will apply the federal Lifeline discount, as well as \$3.50 from TracFone, each month to the regular charges. TracFone will comply with the pro rata requirements in accordance with OAR 860-033-0035(2) for its NET 10 monthly service plans. Lifeline customers choosing NET 10 may be responsible for purchasing their own handset at the standard NET 10 price.”
- Delete the following paragraph on page 8: “TracFone will also engage in good faith discussions with Walmart to make the “Straight Talk” service plan available to Lifeline customers with the federal Lifeline discount and the TracFone \$3.50 discount. TracFone will also comply with the pro rata requirements in accordance with OAR 860-033-0035(2) for the Straight Talk plans.”
- Revise subparagraph e. titled “*OAR 860-033-0010*” on page 17 to state: “This section requires an ETC to “offer OTAP reduced rates or discounts with all service offerings that include basic telephone service.” (Emphasis added). We find that in the context of prepaid cellular telephone services, TracFone’s Lifeline offerings satisfy the public interest standard by their substantial compliance with our rule and we waive the requirement with respect to TracFone’s prepaid cellular service offerings to non-Lifeline customers.”

## ARGUMENT

In support of its request for waiver, TracFone initially notes that the Commission granted Virgin Mobile, a wireless ETC that offers Lifeline service under the brand name Assurance Wireless on a non-paid basis in Oregon, waiver of the requirement in OAR 860-033-0010 that ETCs offer a Lifeline discount on all telephone service offerings.<sup>6</sup> Virgin Mobile also offers several non-Lifeline wireless plans, including Beyond Talk and payLo, both of which require the customer to purchase a handset and to maintain funds in an account to pay for monthly service. The Commission found that there was good cause for granting the waiver because legal,

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<sup>6</sup> See *In the Matter of Virgin Mobile USA, L.P. Petition for Designation as an Eligible Telecommunications Carrier*, UM 1522, Order No. 12-015 (Oregon Pub. Util. Comm’n., January 23, 2012).

technical and economic reasons prevented Virgin Mobile from applying Lifeline discounts on all of its plans and because Virgin Mobile's Assurance Wireless service, unlike Virgin Mobile's other plans, provided Lifeline customers with guaranteed free service each month.<sup>7</sup> As explained below, TracFone, like Virgin Mobile, faces similar obstacles in providing Lifeline discounts on NET10<sup>®</sup> service. Furthermore, TracFone's SafeLink Wireless<sup>®</sup> service currently offers Lifeline customers a choice of three competitive plans, all of which provide customers with monthly service, including access to the public switched telecommunications network, at no charge. As such, the Commission should grant TracFone waiver of OAR 860-033-0010(2).

The Commission should also grant TracFone's request to waive OAR 860-033-0010(2) and to amend Order No. 12-149 to relieve it of the requirement to offer a Lifeline discount on NET10<sup>®</sup> services for the following reasons. In accordance with the ETC Order and Stipulation, since becoming an ETC and commencing Lifeline service in Oregon, TracFone has continued to look for ways to offer Lifeline discounts on its NET10<sup>®</sup> service. Based upon that evaluation, TracFone has determined that the structure of its NET10<sup>®</sup> service is not technically or financially compatible with Lifeline service, that it would not be technically or economically feasible to provide Lifeline discounts on NET10<sup>®</sup> service, and that such an offering would not benefit Oregon's Lifeline-eligible households. Moreover, NET10<sup>®</sup>'s service plans, even if they incorporated a Lifeline discount, would not provide low-income Oregon residents with a meaningful additional competitive choice. In fact, TracFone's SafeLink Wireless<sup>®</sup> Lifeline service provides customers with greater value than a comparable NET10<sup>®</sup> plan with a Lifeline discount.

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<sup>7</sup> See *id.* (adopting Joint Testimony of Virgin Mobile, Staff, CUB, and OEM in Support of Stipulation, filed Dec. 14, 2011 ("Virgin Mobile Joint Testimony")); see also Virgin Mobile Joint Testimony, at 18-23.

The design of TracFone's SafeLink Wireless<sup>®</sup> service is fundamentally different from its non-Lifeline prepaid wireless services. Through its SafeLink Wireless<sup>®</sup> service, TracFone has pioneered the concept of no-charge Lifeline programs. Rather than providing Lifeline benefits in the form of subsidized "discounts" applied to standard rates, TracFone (and other ETCs offering similar plans) provide their Lifeline benefits in the form of no-charge or free service to consumers. TracFone's Lifeline customers are not required to pay monthly bills or to pay in advance for any amount of service. All SafeLink Wireless<sup>®</sup> Lifeline customers in Oregon receive specified quantities of wireless airtime/access to the public switched telecommunications network each month they remain eligible and enrolled in the program.

Under TracFone's SafeLink Wireless<sup>®</sup> Lifeline plans, Lifeline customers receive at no charge wireless airtime each month and free handsets.<sup>8</sup> TracFone offers three SafeLink Wireless<sup>®</sup> Lifeline plan options: (1) 250 free minutes each month, which do not carry over to the next month if unused (unless additional minutes are purchased); (2) 125 free minutes each month, which carry over to the following month if unused; and (3) 68 free minutes each month, which carry over to the following month if unused, plus International Long Distance calling to over 60 destinations.<sup>9</sup> All offerings include 1,000 text messages each month, voicemail and other features, national long distance at no additional charge, and no additional charges for roaming (*i.e.*, calls sent or received outside of the consumer's local service area).

In addition, SafeLink Wireless<sup>®</sup> customers may purchase airtime beyond the free airtime provided each month, at \$0.10 or less per minute. No customers of other TracFone services, including NET10<sup>®</sup> customers, are able to purchase comparable quantities of additional service at

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<sup>8</sup> Although persons enrolled in TracFone's SafeLink Wireless<sup>®</sup> Lifeline program receive handsets at no charge, the cost of those handsets is borne by TracFone. No portion of the handset costs is subsidized either by the federal Universal Service Fund or any Oregon state fund.

<sup>9</sup> Most SafeLink Wireless<sup>®</sup> customers select the 250 minute plan. Some consumers prefer the other plans because they are attracted to certain features of those plans, *e.g.*, carry over minutes, international calling.

more favorable prices. If a TracFone airtime card reflects a per minute rate of more than \$0.10, when a SafeLink Wireless<sup>®</sup> Lifeline customer activates the card, the number of minutes is adjusted to provide a \$0.10 per minute rate to that customer. For example, if a customer purchases a 60 minute card for \$19.99 (a per-minute rate of \$0.33), TracFone's proprietary software automatically detects that the airtime card is being activated by a SafeLink Wireless<sup>®</sup> Lifeline customer and the customer's account balance is increased by 200 minutes, thereby reducing the per-minute price to \$0.10. NET10<sup>®</sup> customers obtain airtime by purchasing airtime cards, usually at third-party retailer locations, and then adding that airtime to their handsets. In short, all TracFone SafeLink Wireless<sup>®</sup> Lifeline customers may purchase as much additional airtime as they wish at the same rates -- \$0.10 per minute or less -- as are available to NET10<sup>®</sup> consumers.

NET10<sup>®</sup> service, unlike SafeLink Wireless<sup>®</sup> service, requires customers to purchase a handset or a SIM card if the customer already has a handset that is compatible with TracFone's NET10<sup>®</sup> service. There are three types of NET10<sup>®</sup> plans through which a customer can purchase service, each of which has several options for purchasing airtime cards. None of these NET10<sup>®</sup> plans offers a meaningful competitive option to Lifeline-eligible households.

The three types of NET10<sup>®</sup> plans are the Family Plan, the 30-Day Monthly Plan, and the Pay-As-You-Go plan. The Family Plan allows two or more family members to share purchased service. The 30-Day Monthly Plan requires customers to purchase airtime minutes each month. Both plans are premised on customers making monthly payments in order to continue to receive service.<sup>10</sup> Under both plans, the customer has the option of providing a credit card number to establish automatic monthly payments. Therefore, customers must either have available credit

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<sup>10</sup> The Family Plan and the 30-Day Monthly Plan offer several airtime cards that provide different amounts of airtime minutes. However, each of the airtime cards offered through the Family Plan and the 30-Day Monthly Plan provides only 30 days of service from the date the airtime card is activated on the customer's handset.

mechanisms in order to automatically execute monthly payments or remember to purchase an airtime card each month.

SafeLink Wireless<sup>®</sup> customers, however, are not committed to such monthly payments. Indeed, the majority of SafeLink Wireless<sup>®</sup> customers have no readily available means of remitting monthly charges on an automatic basis to ensure continuous enrollment in a Family Plan or 30-Day Monthly Plan. Approximately 60 percent of TracFone's Lifeline customers are "unbanked," *i.e.*, they do not have checking accounts and do not have credit cards or debit cards. TracFone developed its SafeLink Wireless<sup>®</sup> Lifeline plan with that fact in mind. A primary reason why Lifeline-eligible consumers choose TracFone's SafeLink Wireless<sup>®</sup> Lifeline service is that no payments via cash, check, credit card or debit card are required. Moreover, "unbanked" Lifeline customers would have no way to sign up for automatic payment of monthly charges for NET10<sup>®</sup> service under either the Family Plan or the 30-Day Monthly Plan. Under both the Family Plan and the 30-Day Monthly Plan, because an additional airtime card must be purchased every 30 days, failure to make a payment in any month for any reason (if a customer did not enroll in an automatic payment plan with a credit card) would place the customer at risk of losing service and network connectivity.<sup>11</sup> That is precisely what SafeLink Wireless<sup>®</sup> is designed to avoid. Furthermore, as explained below, the technical and legal costs associated with offering a Lifeline discount on any of the NET10<sup>®</sup> plans would outweigh any perceived consumer benefit of such an offering.

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<sup>11</sup> Even if a Lifeline-eligible customer wanted to obtain service through a NET10<sup>®</sup> 30-Day Monthly Plan and sign up for automatic payment with a credit card (as explained herein, this scenario is highly unlikely), such a plan would not provide significantly different benefits than the 250 minute SafeLink Wireless<sup>®</sup> plan. The 30-Day Monthly Plan with automatic payment offers 200 minutes for \$15, which would cost \$2.25 with a Lifeline discount of \$12.75. A SafeLink Wireless<sup>®</sup> customer receives 250 minutes at no charge. The 30-Day Monthly Plan with automatic payment also offers 500 minutes for \$30, which would cost \$17.25 with a Lifeline discount. A SafeLink Wireless<sup>®</sup> customer receives 250 minutes at no charge and then could purchase a 200 minute NET10<sup>®</sup> Pay-As-You-Go card for \$20, and thereby receive a total of 450 minutes for a total of \$20.



The NET10<sup>®</sup> Pay-As-You-Go plan is the NET10<sup>®</sup> plan most similar to SafeLink Wireless<sup>®</sup> in that there is no required monthly payment and customers do not need to have a credit card to obtain service. However, Pay-As-You-Go customers must purchase a handset or SIM card at their own expense to initiate service. As with other wireless Lifeline services, such as Virgin Mobile's Assurance Wireless service, avoidance of handset costs by low-income consumers is an important aspect of SafeLink Wireless's<sup>®</sup> attractiveness to Lifeline-eligible consumers.<sup>12</sup> Also, NET10<sup>®</sup> customers must purchase airtime cards for any time period in which they want to use NET10<sup>®</sup> service or they will not have any service.<sup>13</sup> In contrast, SafeLink Wireless<sup>®</sup> customers automatically receive airtime minutes each month at no charge (and without having to do anything except have the handset charged and turned on at about the beginning of each month when the new month's minute allotments are sent to the handset). The Pay-As-You-Go Plan's requirement that a customer purchase airtime minutes in order to receive service defeats the purpose of Lifeline. That purpose is to provide low-income households with continuous access to voice telephony service. TracFone developed SafeLink Wireless<sup>®</sup> to ensure that consumers receive service each month without having to worry about paying for or remembering to purchase an airtime card and without having to establish mechanisms for making monthly airtime purchases. SafeLink Wireless<sup>®</sup> guarantees service each month to low-income customers, whereas a NET10<sup>®</sup> Pay-As-You-Go plan provides no similar assurance of service, largely because of its prepaid nature. It would be the responsibility of each consumer to purchase additional airtime in order to have continuous access comparable to that available to all SafeLink Wireless<sup>®</sup> Lifeline customers.

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<sup>12</sup> See Virgin Mobile Joint Testimony, at 19.

<sup>13</sup> NET10<sup>®</sup> Pay-As-You-Go airtime cards, like the Family Plan and 30-Day Monthly Plan airtime cards, offer various amounts of airtime minutes. However, unlike the Family Plan and 30-Day Monthly Plan airtime cards, the Pay-As-You-Go airtime cards provide service periods that range from 30 to 180 days depending on the number of airtime minutes purchased. Longer service periods are associated with greater amounts of airtime minutes.

Even if a Lifeline discount were to be applied to the purchase price of the Pay-As-You-Go airtime cards, such an option would not provide a meaningful competitive choice for Lifeline-eligible customers. For example, NET10<sup>®</sup> offers a 200 minute Pay-As-You-Go airtime card for \$20 that provides 30 days of service, which would cost a Lifeline customer \$7.25 after application of a Lifeline discount of \$12.75. In contrast, a SafeLink Wireless<sup>®</sup> Lifeline customer receives 250 minutes (50 more minutes than would be received by a NET10<sup>®</sup> customer) at no charge. NET10<sup>®</sup> also offers a 300 minute Pay-As-You-Go airtime card for \$30 that provides 60 days of service. That card would cost \$17.25 after application of a Lifeline discount. A SafeLink Wireless<sup>®</sup> customer receives 250 minutes each month at no charge. Therefore, over a period of 60 days, a SafeLink Wireless<sup>®</sup> customer would receive 500 minutes at no charge, while a NET10<sup>®</sup> customer (after application of a Lifeline discount) would pay \$17.25 to receive only 300 minutes.

While there are other Pay-As-You-Go airtime cards available with an increased number of minutes, such as a 600 minute card sold for \$45 that provides 60 days of service, and a 900 minute card sold for \$60 that provides 90 days of service, in TracFone's experience, the cost of those cards (even with a \$12.75 Lifeline discount), would be far too expensive for most Lifeline customers. TracFone has been providing Lifeline service as an ETC since 2008 and currently provides such service to more than 3.7 million qualified low-income households in about 40 states. It has learned from experience that Lifeline customers rarely purchase additional airtime each month, and almost never purchase large amounts of additional airtime such as the 600 minutes or 900 minutes cards. In fact, less than seven percent of TracFone's SafeLink Wireless<sup>®</sup> Lifeline customers in Oregon purchase additional airtime each month. Moreover, of those

Lifeline customers who purchase additional airtime, 93 percent purchase 300 minutes or less (at a cost of \$30 or less) and 85 percent purchase 200 minutes or less (at a cost of \$20 or less).

Based on the foregoing, offering a Lifeline discount on NET10<sup>®</sup> service that requires monthly payments (such as the Family Plan and 30-Day Monthly Plan) would not ensure the continuous telephone service to low-income consumers that the Lifeline program was intended to provide. In addition, offering a Lifeline discount on NET10<sup>®</sup> service based on the Pay-As-You-Go Plan would not be an economically viable alternative to SafeLink Wireless<sup>®</sup> for low-income consumers nor would it provide greater benefits to those consumers than those available to Lifeline consumers under the SafeLink Wireless<sup>®</sup> program. As such, a requirement that TracFone offer a Lifeline discount on its NET10<sup>®</sup> service would not result in additional competitive choices to Lifeline-eligible customers.

TracFone has conducted market research to determine whether there is significant demand from its customers for a Lifeline service plan that requires low-income consumers to purchase handsets and airtime minutes. The results of that research confirmed to TracFone that its low-income consumers overwhelmingly prefer a Lifeline service that provides customers with a free handset and monthly airtime minutes at no charge.<sup>14</sup> Thus, even if it were possible for TracFone to offer a Lifeline discount on its NET10<sup>®</sup> service, its research confirms that there would be minimal consumer demand for such service. Indeed, throughout TracFone's six years of offering Lifeline service during which time it has addressed almost 15 million enrollment requests and has served approximately 10 million Lifeline customers in about 40 states,

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<sup>14</sup> In early 2011, TracFone commissioned a survey of its SafeLink Wireless<sup>®</sup> customers by CRM – Market Research. According to the results of that study, more than 95 percent of surveyed customers indicated that the service should be free. More importantly, 80 percent of responding customers indicated that they could not afford to pay a monthly charge -- even a discounted charge -- for the service. Finally, 64.3 percent of the customers surveyed indicated that they would not be willing to pay any charges for Lifeline service and would de-enroll from the Lifeline program if charges were imposed.

TracFone has never received a request for Lifeline discounts on its NET10<sup>®</sup> service nor has it received a complaint that such a service is not available. Lifeline customers that wish to receive wireless services for which they do incur a charge have several options available in Oregon. They can receive Lifeline discounts on service offerings of Cricket Communications, T-Mobile, AT&T, US Cellular, and Snake River PCS.


There are also technical and regulatory challenges associated with TracFone's offering a Lifeline discount on its NET10<sup>®</sup> service. These result, in part, from the fact that TracFone's SafeLink Wireless<sup>®</sup> service and services such as NET10<sup>®</sup> are different in their structure and their purpose. Lifeline is subject both to Commission rules and to extensive FCC rules, while there are no Commission or FCC rules governing NET10<sup>®</sup>. First, TracFone would need to significantly reconfigure and expand the information technology platform it uses to provide SafeLink Wireless<sup>®</sup> Lifeline service to enable it to accommodate NET10<sup>®</sup> service and ensure compliance with all applicable Lifeline legal and regulatory requirements. Those changes would include developing a means to accept payment for Lifeline service and updating the NET10<sup>®</sup> website with Lifeline information. Second, the highly regulated nature of Lifeline service would require TracFone to incur substantial costs to train its employees to handle additional Lifeline services, address questions from customers, monitor Lifeline customer activity for multiple service plans, and ensure compliance with applicable FCC and Commission rules. As none of the other 39 states where TracFone is a designated ETC has required TracFone to offer Lifeline discounts on its NET10<sup>®</sup> service, those system changes and related expenditures would need to be incurred solely to offer Lifeline discounts on NET10<sup>®</sup> service in Oregon.

## CONCLUSION

The Commission has previously granted a waiver to Virgin Mobile, an ETC that faced obstacles similar to those of TracFone. In addition, TracFone has investigated the possible ways that it could provide Lifeline discounts on its NET10<sup>®</sup> service and concluded that the costs associated with implementing the system and meeting regulatory requirements would overwhelmingly outweigh the limited (if any) demand for such service. The absence of Lifeline discounts on NET10<sup>®</sup> service would not deny low-income customers competitive choice given TracFone's current SafeLink Wireless<sup>®</sup> service offering and Lifeline service offerings available from other ETCs in Oregon. Based on the foregoing, TracFone requests that the Commission grant this Motion to waive OAR 860-033-0010(2) and to amend Order No. 12-149.

DATED: September 2, 2014

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

**UM 1437**

I hereby certify that I have this 2nd day of September, 2014, served the foregoing **TRACFONE WIRELESS, INC.'S MOTION TO WAIVE COMMISSION RULE AND AMEND COMMISSION ORDER** upon all parties of record in this proceeding by causing a copy to be sent by electronic mail to the following addresses:

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