

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1437

In the Matter of

TRACFONE WIRELESS, INC.

Application for Designation as an Eligible
Telecommunications Carrier

ORDER

DISPOSITION: STIPULATION ADOPTED IN PART AND MODIFIED IN
PART; PETITION GRANTED WITH CONDITIONS;
PARTIAL RULES WAIVER GRANTED

I. SUMMARY

In this order, we adopt in part and modify in part a stipulation recommending, with conditions, approval of the application filed by TracFone Wireless, Inc. for designation as an Eligible Telecommunications Carrier, and designation as an Eligible Telecommunications Provider, enabling it to receive federal Universal Service Fund Support.

II. BACKGROUND

The Telecommunications Act of 1996 (the Act) has, among its goals, the promotion of quality services at just, reasonable and affordable rates, access to advanced telecommunications and information services, and access to services in rural areas comparable to services in urban areas. Integral to the Act is a national policy that every household have, at a minimum, the equivalent of single-line, basic voice-grade, telephone service, often referred to as "Lifeline" service. To that end, it provides for the establishment of a federal Universal Service Fund (USF) which provides financial support to designated providers of telecommunications services. A carrier that meets the standards necessary to receive federal USF support is designated an eligible telecommunications carrier (ETC).

An ETC that is an incumbent local exchange carrier (ILEC) receives USF support based on the cost of providing supported services. A competitive ETC (CETC) only receives USF support for customers it serves in areas where USF support is distributed to ILEC ETCs. A CETC can offer services using either its own facilities or a combination of its

own facilities and resale of another carrier's services, but the CETC only gets support for services provided over its own facilities, unless the Federal Communications Commission (FCC) has ruled that the CETC has satisfied an alternative set of conditions.

Under federal law, states can also set standards for granting a carrier ETC status, and Oregon has done so. In Order No. 06-292¹, we established guidelines for carriers seeking certification as ETCs in Oregon. An itemized "checklist" was attached to Order No. 06-292. The checklist consists of two parts: the "Initial Designation—Application Requirements" and the "Annual Recertification Requirements."

In order to offer Lifeline and Oregon Telephone Assistance Program (OTAP) services in Oregon, an ETC must also be designated an Eligible Telecommunications Provider (ETP). Once a carrier has been certified as an ETP, it can receive payments from the Residential Service Protection Fund (RSPF) for providing certain classes of customers with telecommunications services. The checklist requirements for ETC and ETP designation in Oregon are addressed below in the discussion of specific aspects of the TracFone application. Among those requirements, a carrier seeking ETP designation must also commit to offer and advertise services targeted to low-income populations. These services are Lifeline and OTAP services.^{2 3}

III. PROCEDURAL HISTORY

On August 7, 2009, TracFone USA, L.P., filed an application for designation as an ETC. It amended the application on October 27, 2009, and filed a supplemental application on April 9, 2010 for approval as an ETP to offer OTAP services. The Citizens' Utility Board of Oregon (CUB), Oregon Telecommunications Association (OTA) and Oregon Office of Emergency Management (OEM) joined as parties to this proceeding. On January 7, 2011, TracFone filed a Second Amended Application, and supporting testimony and exhibits. Responsive testimony was submitted by Commission Staff and all parties, with the exception of OTA. The Applicant filed reply testimony on April 12, 2011. The Application for designation as an ETC and the Application for approval as an ETP are collectively referred to by the parties as the "second application."

On June 10, 2011, TracFone filed a stipulation on behalf of all parties supporting TracFone's goal of obtaining the Commission's approval of the second application with the addition of certain terms, conditions, and waivers. The stipulation is attached as Appendix A and incorporated by reference, except to the extent it is modified by this

¹ Docket No. UM 1217 (Jun 13, 2006)

² See generally OAR 860-033-0001, *et seq.* for a discussion of the RSPF and its application to the provision of the named services by ETCs and the compensation and support programs related thereto. ETCs who offer those services are known as Eligible Telecommunications Providers or ETPs. OAR 860-033-0010 through OAR 860-033-0046 set forth the Commission rules with respect to OTAP.

³ *In the Matter of Lifeline and Link Up Reform and Modernization, et al.*, FCC 12-11, released February 6, 2012, at par. 245. The FCC eliminated Link Up support on non-Tribal lands for all ETCs. The support ended April 1, 2012.

order.⁴ The stipulation was accompanied and supported by joint testimony of the stipulating parties. In accordance with the terms of the stipulation, TracFone filed statements of compliance with certain agreed-upon conditions on October 11, October 31, and December 19, 2011. Pursuant to changes in federal Lifeline support implemented by FCC 12-11, the parties filed a supplemental stipulation on April 16, 2012, affirming TracFone's commitment to the service plans as contained in the stipulation and joint testimony and to TracFone's \$3.50 per month per Lifeline customer contribution. The supplemental stipulation is attached as Appendix B to this order.

IV. THE APPLICATION

TracFone is a provider of pre-paid wireless telecommunications service, with more than 18 million customers nationwide. Under a variety of plans, these non-Lifeline customers pay in advance for minutes of airtime, and can add minutes at any time. If their minutes run out, they cannot make or receive calls (except to dial 9-1-1) until they purchase additional minutes. Because customers purchase their service in advance at numerous retail outlets and may even use cash for the transactions, TracFone conducts no credit history checks and does not issue bills to customers for service.

In other states, TracFone also offers separate service plans available only to Lifeline-eligible customers. These plans do not require any out-of-pocket payment by customers, but are instead funded by the federal USF. TracFone also provides an additional \$3.50 per customer per month equivalent of free service to the Lifeline customers. As part of the Lifeline plans, TracFone provides at no cost to the customer a fully E 9-1-1-compliant handset and provides service without requiring a credit check or issuing a bill. TracFone seeks to adapt its current business model to a USF-financed Lifeline program in Oregon, receiving federal USF support in lieu of direct payments by the eligible low-income customers.

Although TracFone has already obtained waivers and received permission from the FCC to provide such Lifeline service, TracFone acknowledges that the Oregon ETC checklist and ETP requirements are not entirely compatible with its standard business model. As a consequence, TracFone seeks numerous waivers and statutory and rule interpretations that will enable it to offer Lifeline service in its preferred manner in Oregon and the stipulation addressed each of those areas.

V. THE STIPULATION

The substantive sections of the stipulation are summarized as follows. The parties first address the federal ETC requirements and agree to accept the forbearance by the FCC of the requirement of 47 U.S.C. Section 214(e) which requires that an ETC provide services, at least in part, over its own facilities.

⁴ The stipulation is by and between TracFone, Staff, CUB, and OEM. OTA has withdrawn from the proceedings and was not a signatory to the stipulation. Testimony of the joint parties in support of the Stipulation was filed on June 17, 2011. We grant the associated joint motion to offer stipulation and testimony as evidence in these proceedings and enter the stipulation and testimony into the record.

The parties next address the Oregon ETC “checklist” requirements and agree that TracFone meets all of the initial designation and annual recertification requirements established in Order No. 06-292, with explicit facilities-related exceptions that address facilities performance. These exceptions are enumerated by TracFone as Initial Requirement 4.2 with respect to signal strength, Recertification Requirement 2.1.1, with respect to service request fulfillment data, Recertification Requirement 5.2 relating to outage data, and Recertification Requirement 6.2 regarding trouble reports by wireless switch.

Similarly, the stipulating parties agree that TracFone meets all of the applicable ETP requirements set out in Oregon statutes and Commission rules except those for which waivers are requested. TracFone agrees to abide by and perform all of the stipulation’s terms regarding Oregon Lifeline customers.

TracFone’s designated service area consists of the wire centers listed in Exhibit A to the stipulation and TracFone represents that it has complete coverage throughout each wire center and will be able to serve all customers residing in those areas. TracFone does not request ETC or ETP designation on Tribal Lands, and such lands are excluded from the wire centers listed in Exhibit A.

The stipulation notes that TracFone does not rely upon its own facilities in order to meet ETC requirements. Consequently, it commits to submitting statements from its underlying facilities-based carriers indicating that they meet ETC requirements, including emergency operation and equal treatment of 9-1-1 calls.

In addition to complying with the conditions prescribed by the FCC, TracFone represents that it will meet all of the “checklist” requirements, except those associated with facilities-related performance. In each instance, TracFone represents that it will obtain the data from underlying carriers and supply it to the Commission.⁵

The stipulation next addresses the ETP requirements in the Oregon Administrative Rules and notes that the parties agree that the Commission should waive the following rules:

- OAR 860-033-0006(3)-(9): monthly and quarterly RSPF Surcharge: General Provisions, Remittance Reports and Payment;
- OAR 860-033-0010: OTAP Applicability—Requirement to apply OTAP reduced rates or discounts with “all service offerings that include basic telephone service;”
- OAR 860-033-0030(6): OTAP Eligibility—requirement that the name of the applicant appear on a billing statement; and
- OAR 800-033-0035(1)-(2): OTAP Benefits—Provision of the monthly State of Oregon \$3.50 OTAP Benefit and Support and the proration of benefits when a customer is determined eligible for less than the entire billing period.

⁵ Compliance filings relative to the initial application requirements have been submitted. *See supra* at 2.

In seeking the waivers, the parties have proposed a unique plan for addressing TracFone's RSPF obligations under OAR 860-033-0006(3)-(9). The stipulation at paragraphs 18 and 19, describes the agreement:

1. TracFone agrees that it will pass through to its customers all of the funds it receives from the federal USF in addition to the \$3.50 per customer per month support it provides to Lifeline customers. TracFone will provide \$3.50 per Lifeline customer per month of its own funds to obtain Tier III matching support from the federal universal service low-income fund.
2. TracFone further promised that, for at least two years after it receives ETC and ETP designations, it will pay the RSPF surcharge for each enrolled Lifeline customer on the customers' behalf.⁶ Additionally, TracFone will contribute an additional amount per month to the RSPF, on a per-customer basis, to help offset any incremental costs to the RSPF program. The amount will be the difference between \$0.20 per month per Lifeline customer and the amount of the RSPF surcharge (currently \$0.12). Thus the initial contribution amount per month per Lifeline customer will be \$0.08.
3. During that two year period, the parties expect the Commission to determine whether TracFone is liable for the RSPF surcharges for *non-Lifeline* customers. In the event that the Commission finds that TracFone is liable for such non-Lifeline customer RSPF surcharges, TracFone will not be required to make the previously-agreed additional contribution commencing with the period for which it pays the RSPF contribution for non-Lifeline customers.
4. If the law governing the RSPF changes, the parties will discuss whether TracFone should be required to continue making the additional contribution and TracFone may commence a proceeding to determine the continued applicability of the RSPF surcharge for the period following the initial two year term discussed in paragraph 2, above.

Notwithstanding the request for waiver of portions of OAR 860-033-0030(6), TracFone commits to make the payments described above and submit the related reports according to the time frames and processes in sections (4)-(9) of the rule.

TracFone will not request Lifeline support in any month for any phone activated and shipped on or after the twentieth day of that month, and will adhere to a "60-day non-usage policy" acknowledged by the FCC and described in Exhibit D to the stipulation. TracFone will offer its SafeLink Wireless® Lifeline services to eligible customers in Oregon at no charge to the customer. Customers will be able to purchase additional minutes at a rate not exceeding \$0.10 per minute and will be available to Lifeline customers in connection with the purchase of any TracFone prepaid airtime card, purchased from a vendor or online from TracFone.

⁶ The charge is currently \$0.12/mo./instrument.

TracFone will provide Staff 60 days advance notice prior to offering Lifeline services in Oregon and provide Staff with 21-day notice on marketing campaigns. It will submit proposed marketing and advertising material for Staff to review at least 21 days prior to publication or release and TracFone agrees to discuss with Staff any questions that may arise with respect to the advertising materials. TracFone further agrees that its advertising will reflect Oregon-specific eligibility requirements. TracFone will submit all material revisions to the terms of its service offerings to Lifeline customers to Staff and CUB for review at least thirty days before implementing the changes.

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. It also agrees to allow customers the ability to dial customer service at 6-1-1 without using allotted airtime minutes, and have adequate access to emergency services by dialing 9-1-1.

VI. DISCUSSION

Although Oregon's requirements generally mirror those of the FCC, TracFone must also prove that it complies with each item on the Order No. 06-292 "checklist," and demonstrate that any waiver given for non-compliance with any checklist item serves the public interest. In order to be designated an ETP, as well as an ETC, in Oregon, TracFone must demonstrate its compliance with the relevant sections of OAR 860-033-0001 *et seq.* or demonstrate that any waiver given for non-compliance with such rule also serves the public interest. Our findings with respect to these requirements follow.

A. Checklist Items in Compliance with Commission Rules

We review and make findings of fact with TracFone's compliance with each of the following sections of the Order No. 06-292 Appendix A ETC criteria checklist as described below:

1. Initial Designation

Item 1.1: Common Carrier. TracFone is a reseller of wireless services and does not own any of the facilities used to provide telecommunications service. It relies upon Verizon Wireless, AT&T Mobility, and T-Mobile networks. Section 214(e)(1)(A) of the Act requires that ETCs must use their own facilities to provide services supported by the USF, or a combination of those facilities and resale of other providers' services. In 2005 the FCC granted TracFone forbearance from that requirement as to Lifeline service provided certain other conditions were met.⁷ We find that TracFone has complied with this checklist item.

⁷ *Id.* at 7-8 and footnote 2 citing *In the Matter of Federal-State Joint Board on Universal Service*, 20 FCC Rcd 15095 (2005) (Forbearance Order). We also note the FCC's recent decision in FCC 12-11 granting a blanket forbearance to all resale ETCs providing Lifeline-only services, upon compliance with certain conditions.

Item 1.2: Service Description and Geographic Area. Pursuant to FCC authorization, and upon receiving our approval, TracFone will offer three specific service plans to Lifeline-eligible customers in Oregon, all under the brand name “SafeLink Wireless®.” Each plan is provided at no cost to the customer; that is, both the wireless handset and a specified amount of airtime each month would be provided free of charge. The offering of these service plans is conditioned upon Commission concurrence to the parties’ recommendations with respect to the application of certain statutes to TracFone’s offerings and to the Public Interest standard.⁸ The stipulating parties have requested waivers of both our rules and Order No. 06-292 in conjunction with the service offering and seek particular interpretations of the applicable statutes, as well. We address those requests below in the section related to waiver requests.

Item 2.1: Commitment and Ability to Provide all Supported Services. On October 11, 2011, TracFone filed letters of commitment from the facilities-based carriers whose services TracFone will be reselling. Pursuant to the Forbearance Order, noted above, Applicant is excused from the requirements of Section 214(e)(1) of the Act. Voice Grade Access to the Public Switched Telephone Network (PSTN), Local Usage, Dial tone Multi-Frequency signaling, Single Party Service, 9-1-1, Operator Services, Interexchange Services and Directory Assistance Access, and Toll Limitation (blocking of outgoing toll calls) will be provided by the underlying carriers to TracFone.⁹

Although TracFone has committed to assuring that its customers have adequate access to emergency services by dialing 9-1-1, it asserts that it is not subject to collecting or remitting the 9-1-1 tax from its customers. “Staff and OEM believe that TracFone’s new Lifeline customer could put significant increased burdens on the 9-1-1 system without contributing to the corresponding increase in costs.”¹⁰ However, the parties to the stipulation only agreed that they would support legislation leading to “competitively neutral and non-discriminatory” means for collection of the tax from prepaid wireless customers.

While the concerns raised by Staff and OEM are considerable, we defer to OEM’s authority to address this issue and decline to impose a condition in this order relative to 9-1-1 funding. We therefore find that TracFone has met the requirements of this checklist item.

Item 2.3: Lifeline Service Offerings Description. TracFone is seeking ETC designation solely to provide prepaid wireless Lifeline service under its SafeLink Wireless® (SafeLink) brand with three plans designated “Safelink”—to be offered immediately—

⁸ *Id.* at 9.

⁹ FCC Order 11-161, which became effective Dec 29, 2011, slightly modified the definition of supported services in 47 U.S.C. § 54.101. FCC Order 11-189 subsequently modified that definition by deleting the word “including” TracFone’s proposed service offerings meet the revised definition in 47 U.S.C.

§ 54.101.

¹⁰ Joint Testimony at 20.

and, NET 10 and Straight Talk—to be offered soon thereafter. The Safelink service will provide customers with the same features as other TracFone prepaid plans except that there will be three different Lifeline plan options available:

- (a) Under the basic plan, eligible Lifeline customers will receive 250 anytime prepaid minutes per month at no charge and all Lifeline customers receive a free phone. The minutes do not carry over to the following month, if unused. Texting will be available at the rate of one text per minute of airtime.
- (b) A second plan offers 125 free minutes per month which do carry over to the following month if unused, with texting available at a rate of one text per minute of airtime.
- (c) A third plan offers 68 free minutes each month, which carry over to the following month if unused, with texting available at a rate of three texts per minute of airtime, plus international long distance calling to over 60 destinations.

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.

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.

The financial support arrangement for TracFone contained in the stipulation in conjunction with its offering of Lifeline Service is unique and requires a waiver of both our rules and the conditions set down in the “checklist” in Order No. 06-292.

First, TracFone will receive \$1.75 per customer per month “Tier III” support from the USF and will receive no RSPF funds, providing the additional \$3.50 support from its own funds.¹¹ The USF support will be used only to serve low-income customers; TracFone does not seek to serve high-cost areas.

The plans include caller I.D., voicemail, call waiting, and E 9-1-1 at no additional charge. Any future changes will be disclosed to the Staff and CUB at least 30 days prior to implementation. TracFone represents that it will discuss and address any Staff or CUB concerns in good faith.

¹¹ See FCC 12-11, in which the FCC requires a new interim nationwide flat rate subsidy. Notwithstanding this change, TracFone will continue to contribute \$3.50 per Lifeline customer per month in lieu of RSPF-provided support. We direct TracFone and Commission Staff to work with the parties to implement any other changes necessitated by FCC 12-11.

We find that TracFone has described its service offerings with sufficient specificity to satisfy this checklist item.

Item 2.4: Comparability to ILEC Local Service Offerings. The FCC requires a case-by-case comparability review, including the nature of the supported service, the size of the local calling area, the inclusion of additional services, and the amount of local usage.¹² As described above, the plans offered by TracFone meet or exceed ILEC Lifeline offerings in several areas and are comparable to ILEC Lifeline offerings. The free basic plan voice service offering, which excludes taxes and connection fees and includes access to other features and provides in excess of four hours per month of local and long distance calling, we find to be affordable *per se*. We find that TracFone has complied with this checklist item.

Item 2.5: Equal Access to LD Carriers. TracFone certifies that, as a reseller, its underlying facilities-based carriers are committed to providing equal access to long distance carriers. We find that TracFone has complied with this checklist item.

Item 3.1: Service Area Identification. TracFone has provided the requisite map of the designated service area boundaries overlaid on the boundaries of ILEC wire centers. TracFone has not requested designation for any service offerings on Tribal Lands and, thus, those areas are excluded. A list of wire centers where TracFone requests designation has also been provided. We find that TracFone has complied with this checklist item.

Item 3.2: Commitment to Provide Service. TracFone has committed to offering the supported services throughout its proposed service area. We find that TracFone has complied with this checklist item.

Item 4.3: Resale or Interconnection Agreements. TracFone has provided evidence of its resale agreements with the underlying service-providing carriers. We find that TracFone has complied with this checklist item.

Items 5.1-5.3: Use of Funds for Intended Purposes. TracFone is limiting its request for ETC designation solely for the purpose of receiving low-income support and not high-cost support and is therefore exempt from these checklist provisions.

Item 6: Advertising Commitment. TracFone will advertise the availability and rates for Lifeline services via newspapers, magazines, radio, the Internet, and direct mail and will reflect Oregon-specific eligibility requirements. All advertising materials will be provided to Staff for review at least 21 days in advance of publication or release. TracFone commits that it will work with Staff in good faith to resolve any issues. We find that TracFone has complied with this checklist item.

¹² See *In re Federal-State Joint Board on Universal Service*, Report and Order, 20 FCC Rcd 6371, 6385 (2005).

Item 7.2: Identification and Description of Specific Lifeline Services. The SafeLink Wireless plans are described above under Item 2.3 and meet the requirements of Item 7.2.

Item 7.3: Advertising to Low-Income Population. The advertising plans described above under Item 6 meet the requirements of Item 7.3.

Items 8.1-8.2: Ability to Remain Functional in Emergencies. TracFone relies totally on the underlying carriers whose services it resells to comply with this ETC standard. Pursuant to paragraph 14 of the stipulation, TracFone submitted compliance reports on October 11, October 31, and December 19, 2011 demonstrating the underlying carriers' ability and commitment to satisfy our emergency service and operation requirements. We find that TracFone has complied with this checklist item by the provision of commitments from its underlying, facilities-based carriers.

Items 9.1-9.2: Commitment to Meet Service Quality and Consumer Protection Standards. TracFone commits to continuing to comply with its trade association's Consumer Code for Wireless Service when designated as an ETC and commits to working with Staff to resolve consumer complaints. Lifeline, and OTAP customers will receive the same customer service, features and functionalities as higher income consumers and TracFone will have a designated contact person for PUC consumer complaints.

Item 10: Public Interest Standard. TracFone asserts that one of the principle goals of the Act is providing lower prices and higher quality services to consumers and rapidly deploying new communications services to all citizens, regardless of geographic location or income. The FCC has determined that TracFone's Lifeline Service offerings meet these standards. Since TracFone will help satisfy this goal in Oregon if designated as an ETC, the Application meets this standard only with respect to the service offerings themselves. We discuss the application's overall compliance with the public interest standard under the following section addressing waivers.

Item 10.1.1: Increase in Consumer Choices. Designating TracFone as an ETC will provide Oregon consumers with three new Lifeline options, with no long-term contracts, and will increase the number of providers offering services to low income consumers. We find that TracFone satisfies this checklist item because an increase in competition will provide more choices and will act as a stimulus to other providers to improve the quality and lower the cost of service to low income customers.

Item 10.1.2: Unique Advantages or Disadvantages. TracFone asserts that its new service will provide lower-income customers a new opportunity to take advantage of the benefits of a competitive wireless market without the common impediments of financial constraints or poor credit history. These customers will be able to have the Lifeline basic service described above in response to Item 2.3 and will be able to purchase additional minutes on a TracFone website or at a retail vendor. Even if the customer does not purchase additional minutes, E 9-1-1 and Customer Care connections will still be available. TracFone's application satisfies this checklist item.

Item 10.1.3: Other Criteria Determined by the Commission. (1) New Lifeline customers may also receive a free SafeLink Wireless-branded handset, ensuring the availability of Lifeline service without upfront costs in excess of the lifeline service rate. TracFone will also supply one free handset per year to replace lost or stolen sets. (3) TracFone asserts that being designated as an ETC solely for Lifeline purposes will not unduly burden the federal USF and would have only minimal impact, outweighed by the benefit of increasing eligible participation in the Lifeline program. (4) The customer will receive the full benefit from Lifeline service because the company will not claim support for a Lifeline customer until the customer's service cycle begins. (5) The company will have numerous retail partner locations where customers will be able to purchase cards providing additional minutes of service, as well as receiving assistance and customer support at the SafeLink Wireless' website and Customer Care telephone number. Service will include arrangement for shipping of replacement handsets where the customer's handset has malfunctioned. The customer will be given a free return package for the defective handset and their account will not be charged. (6) TracFone has instituted a fraud prevention program to ensure that USF funds are received only for customers who actively use their Lifeline services and will work with the Commission to ensure compliance and minimize fraud, waste, and abuse.

Item 10.2: Cream-skimming Analysis. No such analysis is required by the FCC for TracFone's Lifeline service.¹³

2. Annual Recertification

TracFone commits to providing the certifications, affidavits and reports listed in the Annual Recertification Requirements section of the ETC checklist, except insofar as waivers have been requested. We have reviewed the application, stipulation and joint testimony and find that the representations necessary to satisfy those requirements have been met for those items where a waiver has not been requested.

B. Checklist Items Requiring a Waiver of the Checklist Requirements

We grant the requested waivers for the following checklist requirements:

Initial Designation Item 2: Provision of supported services throughout the designated service area. TracFone has requested a partial waiver for this checklist item because, as a reseller of services, it cannot comply with the 6-step process described in 47 C.F.R. Section 54.202(a)(1)(i).

¹³ See FCC Order 09-18, Docket No. 96-45, p. 16, fn.101 (Mar 5, 2009). TracFone has consulted with Staff regarding the requested ETC designated service areas and has deleted those service areas where Staff believes such an analysis would be required. The remaining service area's lack of need for a cream-skimming analysis has not been challenged by any party. TracFone may seek to revisit the service area issue at a later time in order to expand its service area coverage into the areas in question, once the FCC has clarified state commission obligations regarding cream-skimming analyses.

Initial Designation Item 4.1: Use of “Own Facilities.” We waive this checklist item in conformance with the FCC TracFone forbearance order and FCC 12-11 general forbearance.

Initial Designation Item 4.2: Network Coverage Map. TracFone has supplied the requisite maps from underlying carriers noting the signal strength of its proposed coverage area. We find that TracFone has performed the equivalent duties necessary to comply with the intent of this checklist item and we find a waiver to be in the public interest.

Annual Recertification Item 5: Outage Reports. TracFone has committed that, if it cannot provide outage data by itself, it will request its underlying carriers to provide it with the same data for Oregon outages that those carriers submit to the FCC, and the Commission. TracFone committed at paragraph 16d of the stipulation to provide the Commission with responses from its underlying carriers prior to ETC designation.

Annual Recertification Item 6.2.: Trouble Reports. Because it is not a facilities-based carrier, TracFone cannot provide an annual trouble report by wireless switch. TracFone has committed to provide trouble reports for each of the four trouble types—no service, network busy, interruption of service and poor reception—for its Lifeline customers. We find that a waiver of this requirement is in the public interest.

Annual Recertification Item 7: Use of Support Funds. TracFone is not seeking either interstate access or common line support. It owns none of the facilities used to provide Lifeline service and the filing requirement regarding an update plan is inapplicable. TracFone is therefore exempt from the requirements of this item.

We find that TracFone has provided good cause for non-compliance with these checklist items and we waive those requirements with respect to the instant application.

1. Checklist Items Requiring a Waiver of the Commission’s Rules

The offering of these SafeLink service plans is conditioned upon Commission concurrence to the parties’ recommendations with respect to the application of certain rules and statutes to TracFone’s offerings and to the Public Interest standard. We address each provision separately.

a. OAR 860-033-0006(3)-(9)

These provisions govern the payment of the RSPF surcharge. TracFone does not concede that it has a legal obligation to pay the RSPF surcharge, currently \$0.12 per handset per month, for its Lifeline customers. Rather, it contends that the applicability of our rules to its circumstances is ambiguous and requires resolution. In the interim, it offers to not contest the RSPF charge and to make an additional “voluntary contribution” which would bring the amount contributed to the RSPF to \$0.20 per handset per month. TracFone also

requests the prompt institution of a proceeding to determine the applicability of RSPF surcharges to prepaid cell phones generally.

We conclude we must address the applicability of the RSPF surcharge to Lifeline customers in this order. We also address TracFone's offer to make an additional "voluntary contribution" to help offset any incremental costs to the RSPF program.

i. RSPF Surcharge

Oregon Laws 1987, chapter 290, as amended, (chapter 290), establishes the RSPF programs. To support those programs, the Commission was directed to establish a system to assess a monthly surcharge against "each paying retail subscriber" who has telecommunications service. For cell phone users, the surcharge applies on a per instrument basis, but only to subscribers whose "place of primary use, as defined and determined" by the Mobile Telecommunications Sourcing Act (MTSA)¹⁴ is in Oregon.

To determine whether the RSPF surcharge applies to prepaid cell phones, we analyze the RSPF statutory language under the established Oregon methodology for statutory interpretation.¹⁵ The core question regarding TracFone's obligation to pay the RSPF fee is whether each of its users is a "subscriber" within the meaning of the statute. By examining the text, context, and legislative history of the statute, we conclude the answer is yes.

We begin with the text of the statute. Under Chapter 290, Section 7(1), the Commission is directed to impose a surcharge "against each paying retail subscriber" and "shall be applied on a telecommunications circuit designated for a particular subscriber." It goes on to state:

For cellular, wireless and other radio common carriers, the surcharge shall be applied on a per instrument basis, but applies only to subscribers whose place of primary use, as defined and determined under 4 U.S.C. 116 to 126 is within the state.

As a result of the following analysis, we conclude that a user of TracFone's proposed Lifeline service is a "paying retail subscriber." "Paying," is an adjectival use of the present participle of "to pay," and includes "to satisfy (someone) for services rendered or property delivered; discharge an obligation to make due return to" and "to give in return for goods or service."¹⁶ While a regular customer of TracFone pays for the service in advance at a retail outlet, a Lifeline customer gives TracFone, the right to obtain reimbursement from the federal government by going through the qualification process; it is the means by which

¹⁴ 4 USC §§ 116-126.

¹⁵ *PGE v. Bureau of Labor and Industries*, 371 Or 606, 610, 859P2d 1143 (1993) and, with respect to statutory usage of terms of art, *Tharp v. PSRB*, 338 Or 413, 423, 110 P3d 103 (2005). See also, *State v. Gaines*, 346 Or 160, 172-173, 206 P3d (2009).

¹⁶ Webster's Third new International Dictionary (unabridged 2002) at 1657.

the customer pays TracFone, i.e., what the Lifeline customer does “to give in return for goods or service.”

“Retail,” defined as “the sale of commodities or goods in small quantities to ultimate consumers—as opposed to wholesale,”¹⁷ readily applies to the acquisition of handsets and prepaid phone cards by the ultimate user at retail outlets, whether a regular or Lifeline customer.

The statute does not define the third element: “subscriber.” The plain meaning of “subscriber” is: “one that subscribes: as a: one that signs something (as a letter, document, agreement) b: one that agrees or consents * * *.”¹⁸ While prepaid cell phone customers do not sign any documents or have commercial telephone equipment on their premises, they do agree to pay for the services they receive and we find that they fit within the second definition. Furthermore, in the case of Lifeline customers, the services will be provided by TracFone before it receives the RSPF payment, further buttressing the “subscriber” aspect of providing Lifeline services and documents and representations to the FCC are prepared regarding the customer’s eligibility. While it may be argued that the legislature, in using the word “subscriber,” did so as a “term of art,” rather than as described above, we note that within the telecommunications industry, “subscriber” is the ultimate user or customer of telecommunications service.¹⁹

This conclusion is supported by the context of the statute. Because the RSPF statutes require collection of the surcharge by telecommunications providers, then the meaning is clearly that subscribers are customers of telecommunications services and are variously referred to as customers in other subsections, almost always in the context of being “residential customers.” Subsection 7(5) requires carriers to separately identify the surcharge on bills; however, we find that the language was based on the dominant business model—post-paid telecommunications services. Indeed, we find the following language in a Texas court opinion analyzing a statute relating to contribution to E 9-1-1 services to be particularly apt:

The fact that the legislature apparently tailored the manner of assessing and collecting the fee to fit the then-predominant business model does not necessarily indicate an intent to exclude wireless telecommunications connections marketed using a different business model, particularly if, as the Prepaid Providers claim, that different business model was novel at the time the statute was enacted.²⁰

¹⁷ *Id.* at 1938.

¹⁸ *Id.* at 2278.

¹⁹ ATIS Telecom Glossary, <http://www.atis.org/glossary/definition.aspx?id=1077>. See also *Comm’n on State Emergency Communications v. TracFone Wireless, Inc., and Virgin Mobile USA, LP*, 343SW3d 233, 240 (2011).

²⁰ *Commission on State Emergency Communications*, cited *supra* at fn. 19.

Finally, the conclusion that prepaid Lifeline cell phone customers are subscribers for purposes of the RSPF surcharge is consistent with the legislative history. One of the proponents of the bill, Gary Bauer, then President of the Oregon Telephone Association, testified that the surcharge was intended to be assessed against all end users that purchased services that provide access to the relay system.

What we're trying to identify is the end user that's actually purchasing services. * * * [G]oing back to the general concept here—it's if you can access the relay system to use it for a general purpose, then the fee would apply.²¹

Based on the text, context and legislative history, "subscriber" was intended by the legislature as a "term of art" to refer to all telecommunications services customers, including prepaid customers.

We further find that, for the reasons stated below, TracFone's proposed Lifeline service offerings fall within the RSPF payment requirement that the charge "applies only to subscribers whose place of primary use, as defined and determined under 4 U.S.C. § 116 to 126 is within the state."

The "place of primary use" is "the street address representative of where the customer's use of the mobile telecommunications service primarily occurs * * * within the licensed service area of the home service provider."²² In its application, TracFone agrees to comply with the FCC's and the Commission's verification requirements. Such compliance means that the place of primary use must be in Oregon, first, because the legislative policy statement from ORS Chapter 290 declares that it "is the policy of this state to assure that adequate, affordable residential telecommunications service is available to all citizens of *this state*" and, second, that "OTAP" refers to the "*Oregon* Telephone assistance Program indicates that it is a program for Oregonians. (emphasis added)²³.

In its application, TracFone provides detailed information regarding the areas, which are all within the state, where it represents it will provide service to Lifeline customers. The innovative nature of the TracFone business model, which does not require a street address for its subscribers, as noted in *Comm'n on State Emergency Communications v. TracFone Wireless, Inc., and Virgin Mobile USA, LP*, cited above, does not provide a license to bypass the clear legislative intent to require a per-customer per-month contribution where cell phone use primarily occurs. In the present application, where the RSPF charge is at issue, all such locations are represented by TracFone's application to be in Oregon.

²¹ House commerce committee, Subcommittee on Business, Minutes (HB2185), Testimony of Gary Bauer, Oregon Telephone Association, Tape 49 A at 090-121 (Apr 11, 1995).

²² 4 USC §124(8).

²³ OAR 860-033-0030(5).

Accordingly, we reject the conditions set forth in paragraph 19 of the stipulation reflecting TracFone's view of our rules related to RSPF payments

ii. *Voluntary Contribution*

In the stipulation at paragraph 19, TracFone agrees to pay, per Lifeline customer, an amount \$0.08 in excess of the current \$0.12 per month RSPF charges that are currently required. The parties assert that this contribution is in excess of the amount legally due and payable and is thus "voluntary," and for the purposes of helping to defray the Commission's application processing costs.

Under ORS 293.235 as applied to ORS 293.090, the Commission does have the authority to receive gifts. However, a "gift" is something of value transferred without compensation or consideration.²⁴ Although a donor may be able to receive an intangible benefit from a gift, it is difficult to apply such a characterization to this proceeding, where TracFone is seeking our approval to inaugurate a telecommunications service for which it will receive funds from the federal government. TracFone was not compelled to provide the additional funds, and may have done so for a variety of reasons of its own calculation. Nonetheless, the contribution was an integral part of a stipulation settling outstanding issues among the parties from which any party could withdraw if the Commission failed to adopt the stipulation or imposed additional conditions as we have done here.²⁵ Under such circumstances, we conclude that the \$.08 per month per Lifeline customer incremental payment to the RSPF does not fall within the definition of a "gift." We therefore reject TracFone's offer of additional financial contribution to the RSPF.

b. *OAR 860-033-0030(4),(5), and (6)*

These rule sections require the carrier to remit the funds along with associated reports. The company's SafeLink Wireless plan is a prepaid service that does not issue invoices to its customers and requires no financial contribution from a customer to receive Lifeline service. TracFone does not issue billing statements. The parties have stipulated that they adopt a provision of the stipulation in the *TracFone* docket²⁶ that the Commission would modify the application process to require only that the name of the applicant appear on the *customer's account*, rather than the billing statement. TracFone has agreed that Staff will perform the eligibility verification functions. TracFone will comply with the provisions of OAR 860-033-0030 pertaining to eligibility to receive Lifeline services and the parties have agreed that the Commission will be responsible for responding to public inquiries via inbound and outbound phone support, explaining Lifeline rules, eligibility criteria, the application and program processes, policies and procedures, as well as available benefits. We grant the requested waiver for these portions of the rule.

²⁴ Webster's Dictionary, *supra*, at 956.

²⁵ See Stipulation, ¶ 40.

²⁶ *In the Matter of TracFone Wireless Application for Designation as an Eligible Telecommunications Carrier*, Docket No. UM 1437.

c. OAR 860-033-0035(1)(c)

This provision states that ETCs receive a monthly support payment of \$3.50 per customer. TracFone has agreed to decline compensation from the RSFP for enrolling Lifeline customers and for the benefit costs incurred as a consequence of participating in OTAP pursuant to OAR 860-033-0045 and will only seek federal USF support. Customers will receive the same value as the OTAP support because the company will provide customers with an additional \$3.50 in support from its own fund and will receive Tier III support (\$1.75 per month) from the USF. We find that good cause has been shown for a waiver of OAR 860-033-0035(1)(c) because Oregon Lifeline customers will in effect “receive” the OTAP benefit and the actual RSPF will not be adversely affected.

d. OAR 860-033-0045(1)

This subsection of our rules states that a provider of Lifeline services may receive a one-time payment of \$3.80 per customer from the RSPF for enrolling new Lifeline customers. TracFone has declined to receive these funds from the RSPF and has requested a waiver of the rule if the Commission deems such a waiver is necessary. In order to preclude any question as to whether the RSPF might incur a liability to an ETP in the absence of a legally-adequate statement of refusal to accept funds, we find that a waiver of the rule in this instance is a necessary precaution. Good cause having been shown by the parties, a waiver of OAR 860-033-0045(1) should be granted.

e. OAR 860-033-0010

This section requires an ETC to “offer OTAP reduced rates or discounts with *all* service offerings that include basic telephone service.” (Emphasis added). According to TracFone, it will seek to offer Lifeline discounts for its Net10 customers and Straight Talk customers. We find that in the context of prepaid cellular telephone services, these offerings satisfy the public interest standard by their substantial compliance with our rule and we waive the requirement with respect to TracFone’s other prepaid cellular service offerings to non-Lifeline customers. As noted above, TracFone has committed to offering Lifeline discounts on NET 10 services “at the earliest practicable time following its designation as an ETC * * *²⁷. While TracFone has also agreed to enter into good faith negotiations with WalMart to offer Lifeline discounts on Straight Talk 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 services a condition of this order.


²⁷ We note that the stipulation states that such time would be no later than March 31, 2012, a date since passed. We remove that date as an impediment and accept the parties’ “earliest practicable time” standard for implementing the Lifeline discounts on NET 10 services as a reasonable condition.

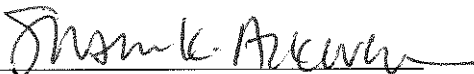
VII. ORDER

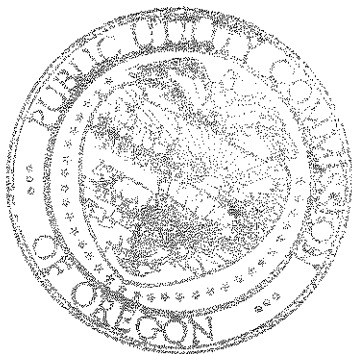
IT IS ORDERED that:

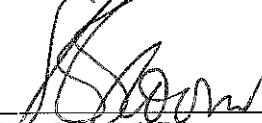
1. The stipulation and supplemental stipulation between TracFone Wireless, Inc., the Staff of the Public Utility Commission of Oregon, the Citizens' Utility Board of Oregon, and the Oregon Office of Emergency Management, attached to this order as Appendices A & B are adopted, as modified herein.
2. The TracFone USA, L.P.,'s Petition for Limited Designation as an Eligible Telecommunications Carrier for the sole purpose of providing Lifeline services and as an Eligible Telecommunications Provider is granted subject to the conditions set forth in this order.
3. Our rules are waived to the extent set forth in this order.
4. In the event that a party to the stipulation wishes to exercise its rights under paragraph 40 of the stipulation and withdraw from it and pursue its rights under OAR 860-001-0350(8), that party shall notify the Commission of its intentions in writing no later than fifteen business days from the date of entry of this order.

Made, entered, and effective MAY 02 2012.


John Savage
 Commissioner


Susan K. Ackerman
 Commissioner




Stephen M. Bloom
 Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1437

In the Matter of

STIPULATION

TRACFONE WIRELESS, INC.

Application for Designation as an Eligible
Telecommunications Carrier.

This Stipulation is entered into for the purpose of resolving all issues in this proceeding by and among the parties as set forth below.

PARTIES

1. The parties to this Stipulation (the "Stipulation") are TracFone Wireless, Inc. ("TracFone"), Staff of the Public Utility Commission of Oregon ("Staff"), Citizens' Utility Board of Oregon ("CUB"), and the Oregon Office of Emergency Management ("OEM"), representing all of the parties to the proceeding (together, the "Parties" and individually, a "Party").

BACKGROUND

2. On August 7, 2009, TracFone filed its Application for designation as an Eligible Telecommunications Carrier ("ETC") with the Public Utility Commission of Oregon (the "Commission"). TracFone filed a First Amended Application on October 27, 2009. TracFone filed an Application for approval as an Eligible Telecommunications Provider ("ETP") under OAR Chapter 860, Division 033: Residential Service Protection Fund (the "RSPF Rules"), on April 9, 2010. On August 24, 2010, TracFone requested suspension of the schedule in the docket; the request was granted on August 25, 2010. On November 8, 2010, the docket was reactivated at TracFone's request. TracFone filed a Second Amended Application on January 7, 2011, along with direct testimony and exhibits in support thereof. TracFone's Second Amended

1 Application for designation as an ETC and its Application for approval as an ETP are together
2 referred to herein as the "Second Application."

3 3. The Commission opened this docket to consider TracFone's Application. CUB
4 intervened in this docket and the Commission granted OEM and the Oregon
5 Telecommunications Association ("OTA") permission to intervene as parties in this docket.
6 OTA subsequently withdrew as a party to this proceeding. Staff and CUB served data requests
7 on TracFone to which TracFone has responded.

8 4. On March 23, 2011, Staff, CUB, and OEM filed testimony in response to
9 TracFone's Second Amended Application and direct testimony.

10 5. Staff, CUB, and OEM have reviewed TracFone's Application, First Amended
11 Application, Second Amended Application, ETP Application, the pre-filed testimony and
12 exhibits of TracFone, TracFone's responses to the extensive discovery requests submitted in this
13 proceeding, and additional information provided by TracFone.

14 6. On May 26, 2010, the Parties held a workshop/settlement conference. The Parties
15 held further settlement conferences, both in person and via teleconference, on July 13, 2010,
16 March 29, 2011, April 19, 2011, April 20, 2011, May 25, 2011, and June 7, 2011. The
17 settlement conferences have been open to all parties to this docket.

18 AGREEMENT AND CONDITIONS

19 7. The Parties agree that TracFone's designation as an ETC and ETP in Oregon is,
20 with application of the following terms, conditions, and certain waivers, in the public interest.

21 8. First, the Commission recognizes and accepts forbearance from the requirement
22 in 47 U.S.C. § 214(e) that an ETC provide services, at least in part, over its own facilities,
23 granted by the FCC to TracFone in FCC 05-165.

24 9. Second, the Parties agree that TracFone meets all initial designation and annual
25 recertification requirements established in Order No. 06-292, except as specified herein.
26

10. Third, the Parties agree that TracFone meets applicable ETP requirements specified in Oregon Administrative Rules, with the exception of those for which waivers are requested herein.

11. Fourth, the Parties agree that approval of TracFone's Application is in the public interest subject to the additional requirements specified herein. By virtue of executing this Stipulation, TracFone agrees to abide by and perform all terms of this Stipulation with respect to Lifeline customers in Oregon.

12. TracFone's ETC and ETP designated service area will be comprised of the wire centers listed in Exhibit A attached hereto. TracFone represents that it has complete coverage throughout each of these wire centers and is able to provide service to any requesting customers residing in these areas.

13. TracFone does not request designation as an ETC or ETP on Tribal lands in Oregon. Any wire center that includes such Tribal lands is excluded from the wire centers listed in Exhibit A.

ETC Requirements

14. Prior to designation as an ETC, TracFone will submit to the Commission statements from its underlying carriers indicating:

- a) the ability of such carriers to remain operational in the event of emergencies; and,
- b) that such carriers treat 9-1-1 calls from TracFone customers in the same manner as those carriers treat 9-1-1 calls from their own retail customers.

Also prior to designation as an ETC, TracFone will work with Staff to submit to the Commission an accurate map identifying TracFone's ETC and ETP designated service area, which will be consistent with Exhibit A and comply with initial designation requirement 3.1.1 in Appendix A of Order No. 06-292.

16. TracFone will meet all requirements of Order 06-292, except as specified below.

Tracfone cannot:

- a) Provide supported services over, at least in part, its own facilities.
- b) Comply with Appendix A, Initial Requirement 4.2, to the extent it requires TracFone to show signal strengths.
- c) Comply with Appendix A, Recertification Requirement 2.1.1, subrequirement to describe how it complies with 47 C.F.R. § 54.202(a)(1)(i).
- d) Comply with Appendix A, Recertification Requirement 5.2. If TracFone cannot provide outage data by itself, it will request that its underlying carriers provide to the Oregon Commission the same data for Oregon outages that the underlying carriers submit to the FCC. TracFone will make such requests, and submit the carriers' responses, prior to ETC designation.
- e) Comply with Appendix A, Recertification Requirement 6.2, subrequirement to report service troubles by wireless switch. TracFone agrees to provide trouble reports by each of the categories required in Order No. 06-292 for Lifeline customers in Oregon.

ETP Requirements

17. TracFone will meet all Oregon Administrative Rules related to ETP designation requirements with the exception of those for which parties have agreed to support waiver requests. The specific rules, or rule subsections, the Parties agree the Commission should waive are those included in Exhibit C. The reasons supporting the request for waivers are set forth in the Joint Testimony supporting this Stipulation. In the event the Commission concludes that an

1 amendment to the RSPF Rules is required for the Commission to grant some of the waivers
2 requested herein, the Parties agree and hereby request that the Commission open a rulemaking
3 proceeding to consider amendments to the specific RSPF Rules, and rule subsections, for which
4 waiver is requested. The Parties also agree and hereby request that the Commission issue a
5 temporary rule, effective at the earliest possible date, to permit waiver of the specific RSPF
6 Rules, or rule subsections, for which waiver is requested.

7 18. TracFone agrees that it will pass through to its Lifeline customers as free wireless
8 telephone service all funds received from the federal universal service fund in addition to \$3.50
9 per customer per month that TracFone provides. TracFone will provide \$3.50 per Lifeline
10 customer per month of its own funds to obtain Tier III matching support from the federal
11 universal service low-income fund.

12 19. For the period of not less than two years from the date of its ETC and ETP
13 designations, TracFone will pay the RSPF surcharge to the Commission for each of its enrolled
14 Oregon Lifeline customers on behalf of those customers. The surcharge currently is \$0.12 per
15 month per instrument. TracFone further agrees that it will contribute to the Residential Service
16 Protection Fund, through the Commission, an additional amount per month for each of its
17 enrolled Oregon Lifeline customers to help offset any incremental costs to the RSPF program.
18 The amount of the additional contribution will be the difference between \$0.20 per month per
19 Oregon Lifeline customer and the amount of the RSPF surcharge. Thus, the initial additional
20 contribution amount per month per Oregon Lifeline customer will be \$0.08. TracFone agrees
21 that it will make the additional contribution amount for a period not less than two years from the
22 date of ETC and ETP designations; however, in the event that it is determined that TracFone is
23 liable for payment of RSPF surcharges for non-Lifeline customers, TracFone will not be required
24 to make the additional contribution for any period for which TracFone pays the RSPF surcharge
25 for its non-Lifeline customers. If the law governing application of the RSPF surcharge changes,
26

1 then the Parties agree to meet and discuss whether TracFone should be required to continue to
2 make the additional contribution. TracFone may commence a proceeding to determine the
3 continued applicability of the RSPF surcharge for the period following these initial two years.

4 20. Notwithstanding the request for waiver of certain subsections of OAR 860-033-
5 0006, TracFone will make the payments described in Paragraph 19 and related reports according
6 to the time frames and processes set forth in OAR 860-033-0006(4)-(9).

7 21. Each applicant for Lifeline service from TracFone will complete and submit the
8 OTAP application to the Commission. Staff will revise the OTAP application so that it
9 (1) allows for the applicant's name to be on the phone account, rather than the phone bill in cases
10 where no bill is rendered and (2) does not require that the applicant currently have telephone
11 service from its desired ETC, at the time of the application. Staff will perform the eligibility
12 verification functions and report the results to TracFone in a reasonable period of time as is
13 expected by the other ETPs.

14 22. If TracFone ships an activated handset to a customer on or after the twentieth
15 (20th) day of any calendar month, TracFone will not request Lifeline support for that customer
16 for that month.

17 23. TracFone will implement in Oregon its "60-day Non-Usage Policy" currently
18 implemented by it in every State in which TracFone provides Lifeline-supported service as an
19 ETC and as acknowledged by the FCC. The current policy is set forth in Exhibit D.

20 24. TracFone will offer its SafeLink Wireless® Lifeline services (the current plans
21 are described in Exhibit E) to eligible customers in Oregon at no charge to the customer. In
22 addition, TracFone will offer its Lifeline customers the ability to purchase additional minutes of
23 use at a rate no higher than \$0.10 per minute. The \$0.10 per minute rate will be available to
24 Oregon Lifeline customers in connection with the purchase of any TracFone prepaid airtime
25 card, whether available for purchase at retail vendor locations or for online purchase through
26

1 TracFone's website (www.tracfone.com). This will include the option of purchasing 100
2 minutes of additional usage for \$9.99 (plus any applicable taxes) for online purchases. This
3 information will be prominently displayed on TracFone's SafeLink Wireless® website
4 (www.safelink.com).

5 25. TracFone will deactivate and replace the handset of a Lifeline customer one time
6 during the first year of service if it is not working for any reason. In addition, if TracFone
7 activates a customer's Lifeline service on a network using one wireless technology (i.e., either
8 GSM or CDMA) and the customer is unable to utilize the service from his or her residence,
9 TracFone will deactivate and replace the handset with one utilizing the other technology,
10 provided that the customer resides in an area where service is available from a carrier which
11 utilizes the other technology. By way of example, if TracFone activates a customer on a network
12 of a carrier which utilizes CDMA technology and the customer complains that the underlying
13 carrier's coverage is not satisfactory at his or her residence, then TracFone will deactivate the
14 CDMA-based handset and provide the customer with a GSM handset and will activate the
15 customer's Lifeline service on a GSM network, if a GSM provider has coverage where the
16 customer resides. Once each month, for each customer who received a handset utilizing different
17 technology as described in this paragraph during that month, TracFone will report the customer's
18 name, address, phone number and Commission-assigned OTAP identification number to the
19 OTAP manager in an electronic format accessible by the Commission.

20 26. TracFone will give Staff at least 60 calendar days advance notice before it begins
21 offering Lifeline services in Oregon. TracFone will notify Staff of all its Oregon marketing
22 campaigns at least twenty-one (21) calendar days in advance. In addition, TracFone will submit
23 all proposed marketing and advertising material, including but not limited to television and radio
24 Public Service Announcements, for Staff review at least twenty-one (21) calendar days in
25 advance of publishing or releasing the advertisement. TracFone agrees to discuss any concerns
26

1 Staff may have with respect to any such advertising materials and to work in good faith to
2 address such concerns. TracFone further agrees that its advertising will reflect Oregon-specific
3 eligibility requirements.

4 27. TracFone will submit all material revisions to the terms of its service offerings to
5 Lifeline customers to Commission Staff and to CUB for review at least thirty (30) calendar days
6 before implementing such revisions. TracFone agrees to discuss any concerns Staff or CUB may
7 have with respect to any such revisions and to work in good faith to address such concerns.

8 28. TracFone will offer its monthly "NET 10" service plans to Oregon Lifeline
9 customers at the earliest practicable time following its designation as an ETC, but no later than
10 March 31, 2012, and will apply the federal Lifeline discount, as well as \$3.50 from TracFone,
11 each month to the regular charges. TracFone will comply with the pro rata requirements in
12 accordance with OAR 860-033-0035(2) for its "NET 10" monthly service plans. Parties
13 understand that TracFone may require a Lifeline customer to agree to arrange an automatic
14 payment method, such as with a credit card, a debit card, or an electronic transfer from a bank
15 account that will permit TracFone to charge the customer at the beginning of each month without
16 requiring the issuance of a bill to the customer. Additionally, customers selecting Lifeline
17 NET 10 services may be responsible for the purchase of their own handset at a standard NET 10
18 price. TracFone further agrees to provide a progress update on the status of the service offering
19 by October 1, 2011.

20 29. TracFone will engage in good faith discussions with Walmart to make available
21 "Straight Talk" service plans to Lifeline customers, with appropriate Lifeline discounts (federal
22 Lifeline discount and \$3.50 from TracFone) applied each month to the regular charges and
23 TracFone will comply with the pro rata requirements in accordance with OAR 860-033-0035(2)
24 for its "Straight Talk" monthly service plans once it offers its Lifeline discount. TracFone will
25 provide quarterly progress reports to Staff, CUB, and other interested Parties, beginning on or
26

1 before the 90th day after the date of the Order designating TracFone as an ETP, that demonstrate
2 and document negotiations, progress and unresolved issues towards making Straight Talk
3 services available to Lifeline customers.

4 30. TracFone agrees to cooperate with OEM to support legislation that would
5 establish competitively neutral and non-discriminatory means for collection of the 9-1-1 tax from
6 consumers of non-billed services such as prepaid wireless services.

7 31. Prior to designation as an ETP in Oregon, TracFone will submit to the
8 Commission and to OEM written certification that all handsets offered to customers are E911-
9 capable and are able to provide to PSAPs the information specified under the FCC's Phase I and
10 Phase II E911 rules.

11 32. TracFone will ensure that it makes available adequate personnel for daily
12 communications with Staff regarding Lifeline questions and concerns and Lifeline reporting
13 issues. TracFone will also make available adequate personnel for raising issues to appropriate
14 levels of authority above the customer service representative level for resolution, including but
15 not limited to issues related to loss prevention. The personnel made available will have the
16 authority to deactivate a customer's phone. TracFone will provide designated personnel's
17 contact information including but not limited to e-mail addresses and telephone numbers to the
18 OTAP manager.

19 33. TracFone agrees that its Lifeline customers will be able to make customer service
20 calls by dialing "611" without deducting any of their allotted free minutes (also referred to as
21 "airtime").

22 34. When the Commission notifies TracFone of customers who meet eligibility
23 criteria, TracFone agrees to report to the OTAP manager weekly the customers' names,
24 addresses, TracFone-assigned phone numbers and Commission-assigned OTAP identification
25 numbers in an electronic format accessible by the Commission. The report will list any
26

1 discrepancy, pursuant to OAR 860-033-0046(4), that prevents a customer from receiving
2 Lifeline service (e.g., undeliverable shipment of activated handset, etc.). The parties agree to
3 revisit this requirement after one year to determine if a less-frequent report is warranted.

4 35. Pursuant to OAR 860-033-0046 (2) and (3), TracFone agrees to report all
5 customers receiving Lifeline in a given month. TracFone agrees to list all customers' names,
6 addresses, phone numbers and Commission-assigned OTAP identification numbers. TracFone
7 agrees to identify on the report customers whose addresses, phone numbers or plans have
8 changed in TracFone's records.

9 Special reports

10 36. TracFone agrees to provide quarterly to Staff and to CUB, the Oregon-specific
11 reports attached as Exhibit F.

12 37. TracFone agrees to provide Staff a copy of Oregon-specific monthly Lifeline
13 Worksheets (Form 497) that it submits to the Universal Service Administrative Company from
14 which it claims or seeks low-income reimbursement or support. Such reports shall be submitted
15 monthly to the OTAP manager. In conjunction with Form 497, TracFone agrees to report the
16 customers' names, addresses, phone numbers and Commission-assigned OTAP identification
17 number for which it requests claims of low-income support from the federal Universal Service
18 Fund to the OTAP manager in an electronic format accessible by the Commission.

19 38. All Parties agree that the General Protective Order entered in this proceeding on
20 May 20, 2010 (Order No. 10-189) applies to information that TracFone is required to submit to
21 the Commission, Staff, or CUB under the terms of this Stipulation, which includes but is not
22 limited to, information required in paragraphs 25, 26, 27, 29, 34, 35, 36, and 37. Notwithstanding
23 the Protective Order requirements for filing such material on yellow paper, the Parties agree that
24 such information may be submitted to Staff, CUB and other Parties electronically, as required in
25 the Stipulation. Notwithstanding this condition, nothing prohibits Staff from sharing such
26

1 information with the FCC and USAC, upon request of those entities or as reasonably required for
2 the performance of Staff's, FCC's or USAC's duties.

3 GENERAL TERMS

4 39. The Parties agree to support Commission approval of TracFone's request for
5 initial ETC and ETP designations, consistent with the terms and conditions specified in this
6 Stipulation. The Parties will encourage the Commission to issue an order approving TracFone's

7 Second Application and the Stipulation as soon as possible. This Stipulation will be offered into
8 the record of this proceeding as evidence pursuant to OAR 860-001-0350(7). The Parties agree
9 to support this Stipulation throughout this proceeding and any appeal, and to provide either
10 witnesses to sponsor testimony or legal representatives to support this Stipulation. The Parties
11 will recommend the Commission issue an order adopting the terms and conditions specified in
12 this Stipulation and approving TracFone's Second Application and this Stipulation.

13 40. The Parties have negotiated this Stipulation as an integrated document. If the
14 Commission rejects all or any material part of this Stipulation or imposes additional material
15 conditions in approving the Stipulation and the Second Application, any Party disadvantaged by
16 such action shall have the right, upon written notice to the Commission and all other Parties
17 within 15 business days of the Commission's order, to withdraw from this Stipulation, pursue
18 their rights under OAR 860-001-0350(8), and/or seek reconsideration or appeal of the
19 Commission's order in accordance with OAR 860-001-0720. However, prior to withdrawal, the
20 Party shall engage in good faith negotiation with the other Parties. No Party withdrawing from
21 this Stipulation shall be bound to any position, commitment, or condition of this Stipulation. In
22 the event any Party withdraws from the Stipulation, then no part of the Stipulation may be
23 offered or admitted into evidence in a hearing on TracFone's Second Application or any
24 subsequent application for certification as an ETC or ETP.
25
26

41. The Parties agree that this Stipulation represents compromises in the positions of the Parties. As such, conduct, statements, and documents disclosed in the negotiation of this Stipulation shall not be admissible as evidence in this or any other proceeding, unless independently discoverable or offered for other purposes allowed under ORS 40.190. By entering into this Stipulation, no Party shall be deemed to have approved, admitted, or consented to the facts, principles, methods, or theories employed by any other Party in arriving at the terms of this Stipulation, other than those specifically identified in the body of this Stipulation. No Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding, except as expressly identified in the Stipulation.

42. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

This Stipulation is entered into by each Party as of the date(s) entered below:

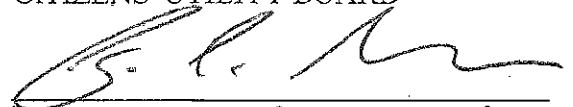
TRACFONE WIRELESS, INC.

By: Lawrence Reichman
Its: Attorney
Dated: June 10, 2011

STAFF OF THE PUBLIC UTILITY
COMMISSION OF OREGON

By:
Its:
Dated:

CITIZENS' UTILITY BOARD


By: G. Cathryn McGee
Its: General Counsel
Dated: 6-10-11

OREGON OFFICE OF EMERGENCY
MANAGEMENT

By: _____
Its: _____
Dated: _____

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CITIZENS' UTILITY BOARD

By:
Its:
Dated:

OREGON OFFICE OF EMERGENCY
MANAGEMENT

By: Steven A. Wolf
Its: Counsel of Record
Dated: June 10, 2011

EXHIBIT A

TRACFONE PROPOSED DESIGNATED SERVICE AREA

(Excluding Federally Recognized Tribal Lands)

Wire Center Code	Wire Center Name	Exchange Name(s)
QWEST		
ADAR	Adair	Corvallis
ALBY	Albany	Albany
ASLD	Ashland	Ashland
ASTR	Astoria	Astoria
BAKR	Baker City	Baker, Sumpter
BEND	Bend	Bend
BLBT	Black Butte	Camp Sherman
BLRV	Blue River	Blue River
BURL	Burlington	Burlington
CLCK	Culp Creek	Cottage Grove
CLVR	Culver	Culver
CNBH	Cannon Beach	Cannon Beach
CNPN	Central Point	Central Point
CRVS	Corvallis	Corvallis
CTGV	Cottage Grove	Cottage Grove
DLLS	Dallas	Dallas
EUGN-28	River Road	Eugene-Springfield
EUGN-53	Eugene-10th Ave	Eugene-Springfield
FLCY	Falls City	Falls City
GLHL	Gold Hill	Gold Hill
GRPS	Grants Pass	Grants Pass
HMTN	Hermiston	Hermiston
INDP	Independence	Independence-Monmouth
JCVL	Jacksonville	Jacksonville
JFSN	Jefferson	Jefferson
JNCY	Junction City	Junction City, Harrisburg
LAPI	La Pine	La Pine
LEBG	Leaburg	Leaburg
LKOS	Lake Oswego	Lake Oswego
LWLL	Lowell	Lowell
MDFD	Medford	Medford
MLTN	Milton Freewater	Milton Freewater
MLWK	Milwaukie	Oak Grove-Milwaukie
MRCL	Marcola	Marcola
NPLN	North Plains	North Plains
OKRG	Oakridge	Oakridge
ORCY	Oregon City	Oregon City
PHNX	Phoenix	Phoenix-Talent
PRVL	Prineville	Prineville
PTLD-02	Cypress	Portland

Wire Center Code	Wire Center Name	Exchange Name(s)
PTLD-08	Harold	Portland
PTLD-11	Alpine	Portland
PTLD-12	Atlantic	Portland
PTLD-13	Belmont	Portland
PTLD-14	Butler	Portland
PTLD-17	Cherry	Portland
PTLD-18	Prospect	Portland
PTLD-69	Capitol	Portland
RANR	Rainier	Rainier
RDMD	Redmond	Redmond
RGRV	Rogue River	Rogue River
RSBG	Roseburg	Roseburg
SALM-58	Salem	Salem
SALM-59	Keizer	Salem
SESD	Seaside	Seaside
SPFD	Springfield	Eugene-Springfield
SPRV	Spring River	Bend
SSTR	Sisters	Sisters
STFD	Stanfield	Stanfield
STHN	St Helens	St Helens
STHR	Sutherlin	Oakland-Sutherlin
UMTL	Umatilla	Umatilla
VENT	Veneta	Veneta
WDBN	Woodburn	Woodburn-Hubbard
WNTN	Winston	Roseburg
WRTN	Warrenton	Warrenton
WSPT	Westport	Westport
Frontier NW (former Verizon)		
ALOH	Aloha	Beaverton
AMTY	Amity	Amity
AMVL	Aumsville	Aumsville-Turner
BKNG	Brookings	Brookings
BNDN	Bandon	Bandon
BNKS	Banks	Forest Grove
BVTN	Beaverton	Beaverton
CLTS	Clatskanie	Clatskanie
COVE	Cove	Cove
CQLL	Coquille	Coquille
DTRT	Detroit	Detroit
DYTN	Dayton	Dayton
ELGN	Elgin	Elgin
EMPR	Empire	Coos Bay
ENTR	Enterprise	Enterprise
FRGV	Forest Grove	Forest Grove
GDIS	Grand Island	Grand Island

Wire Center Code	Wire Center Name	Exchange Name(s)
GRHM	Gresham	Gresham
GSTN	Gaston	Forest Grove
HOLD	Hoodland	Hoodland
HLBO	Hillsboro	Hillsboro
IMBL	Imbler	Imbler
LAGR	La Grande	La Grande
LKSD	Lakeside	Lakeside
LOST	Lostine	Lostine
MLCY	Mill City	Mill City
MMVL	McMinnville	McMinnville
MRPH	Murphy	Murphy-Provolt
NBND	North Bend	Coos Bay
NWBR	Newburg	Newburg
ORNT	Orient	Gresham
PRVT	Provolt	Murphy-Provolt
PWRS	Powers	Powers
RDPT	Reedsport	Reedsport
SCHL	Scholls	Scholls
SHWD	Sherwood	Sherwood
SLTN	Silverton	Silverton
SMRW	Sumerset West	Beaverton
SNDY	Sandy	Sandy
SNSD	Sunnyside	Sunnyside
STFR	Stafford	Stafford
TGRD-XA	Tigard	Tigard
TGRD-XC	Bull Mountain	Tigard
TRNR	Turner	Aumsville-Turner
TULT	Tualatin	Stafford
UNIN	Union	Union
VRNN	Vernonia	Vernonia
VYVW	Valley View	Sunnyside
WIVL	Wilsonville	Stafford
WLLW	Wallowa	Wallowa
YMHL	Yamhill	Yamhill
CenturyTel		
AURR	Aurora	Aurora
BDMN	Boardman	Boardman
BLY	Bly	Bly
BNNZ	Bonanza	Bonanza
BWVL	Brownsville	Brownsville
CHBU	Charbonneau	Charbonneau
CMVY	Camas Valley	Camas Valley
CRWL	Creswell	Creswell
DRAN	Drain	Drain
DURK	Durkee	Durkee
ECHO	Echo	Echo

Wire Center Code	Wire Center Name	Exchange Name(s)
FTKL	Fort Klamath	Klamath
GLCH	Gilchrist	Gilchrist
GVCN	Government Camp	Government Camp
HNTN	Huntington	Huntington
HPNR	Heppner	Heppner
IONE	Ione	Ione
JEWL	Jewell	Jewell
KNPP	Knappa	Knappa
LBNN	Lebanon	Lebanon
LKVW	Lakeview	Lakeview
LXTN	Lexington	Lexington
MALN	Malin	Malin
MAUP	Maupin	Maupin
MRRL	Merrill	Merrill
MTCH	Mitchell	Mitchell
NPWR	North Powder	North Powder
PALN	Paulina	Paulina
PNGV	Pine Grove	Pine Grove
PSLY	Paisley	Paisley
RCPN	Rocky Point	Rocky Point
SCPP	Scappoose	Scappoose
SHDD	Shedd	Shedd
SLLK	Silver Lake	Silver Lake
SWTH	Sweet Home	Sweet Home
TYVY	Tygh Valley	Tygh Valley
UKIH	Ukiah	Ukiah
WAMC	Wamic	Wamic
YNCL	Yoncalla	Yoncalla
Sprint/United		
BEVR	Beaver	Beaver
BTFL	Butte Falls	Butte Falls
BYCY	Bay City	Bay City
CODL	Cloverdale	Cloverdale
CRTO	Carlton	Carlton
CSLC	Cascade Locks	Cascade Locks
FSLK	Fish Lake	Fish Lake
GRBL	Garibaldi	Garibaldi
GRVY	Grass Valley	Grass Valley
MORO	Moro	Moro
MOSR	Mosier	Mosier
ODLL	Odell	Odell
PCCY	Pacific City	Pacific City
PRDL	Parkdale	Parkdale
PRSP	Prospect	Prospect
RKWY	Rockaway	Rockaway

Wire Center Code	Wire Center Name	Exchange Name(s)
RUFS	Rufus	Rufus
SHCV	Shady Cove	Shady Cove
SHRD	Sheridan	Sheridan
TLMK	Tillamook	Tillamook
WASC	Wasco	Wasco
WHCY	White City	White City
WLMN	Willamina	Willamina
Qwest (Malheur)		
NYSS	Nyssa	Nyssa
ONTR	Ontario	Ontario
ORSL	Oregon Slope	Oregon Slope
Canby		
CNBY	Canby	Canby
NEDY	Needy	Canby
Cascade Utilities		
CRBT	Corbett	Corbett
EKTN	Elkton	Elkton, Ash Valley
EGCK	Eagle Creek	Estacada
ESCD	Estacada	Estacada
HANS	Haines	Haines
MDSP	Medical Springs	Medical Springs
SCBG	Scottsburg	Scottsburg
ESCD	Mt. Hood Meadows	Estacada
Stayton		
STTN	Stayton	Stayton
Molalla		
MLLL	Molalla	Molalla
Beaver Creek		
BVCK	Beaver Creek	Beavercreek
Clear Creek		
RDLD	Redland	Redland
Nehalem		
NHLM	Nehalem	Nehalem
Mt. Angel		
MTAN	Mt. Angel	Mt. Angel
Scio		
SCIO	Scio	Scio

Wire Center Code	Wire Center Name	Exchange Name(s)
People's		
LYNS	Lyons	Lyons
Colton		
COTN	Colton	Colton
Gervais		
GRVS	Gervais	Gervais
Monroe		
MONR	Monroe	Monroe
Roome		
HLSY	Halsey	Halsey
Monitor		
MNTR	Monitor	Monitor
St. Paul		
STPL	St. Paul	St. Paul
North-State		
DUFU	Dufur	Dufur
Trans-Cascade		
ANTP	Antelope	Antelope

EXHIBIT B

Intentionally Omitted



Exhibit C

Oregon Administrative Rules (OAR) for which TracFone Seeks a Waiver

OAR 860-033-0006(3) - (9): Monthly and Quarterly RSPF Surcharge: General Provisions, Remittance Reports and Payment.

OAR 860-033-0010: OTAP Applicability – Requirement to apply OTAP reduced rates or discounts with “all service offerings that include basic telephone service.”

OAR 860-033-0030(6): OTAP Eligibility – Requirement that the name of the applicant appear on a billing statement.

OAR 860-033-0035(1) and (2): OTAP Benefits – Provision of the monthly State of Oregon \$3.50 OTAP Benefit and Support and the proration of benefits when a customer is determined eligible for less than an entire billing period.

Exhibit D**NON-USAGE POLICY**

TracFone's non-usage policy applies to its SafeLink Wireless® Lifeline customers who have 60 days without usage. At the end of each month, TracFone reviews the usage of all of its Lifeline customers to identify those customers who have had no usage for 60 days. Customers who have no usage for 60 days are de-enrolled from the Lifeline program and do not receive their next monthly allotment of Lifeline minutes. In addition, TracFone ceases to seek reimbursement from the USF for such de-enrolled customers.

After de-enrollment, TracFone grants one month (without receiving Lifeline program benefits) to de-enrolled customers to request re-enrollment in the Lifeline program. Customers who do not request re-enrollment within the period specified above will have their phones deactivated and they will be unable to place and receive calls. Customers who request re-enrollment will be re-enrolled and will continue to receive a monthly allotment of benefits under the Lifeline program. TracFone only seeks reimbursement from the USF for enrolled Lifeline customers.

Customers are always able to dial 911 from their phones, even after their service has been deactivated based upon non-usage. Customers attempting to place calls after their service has been deactivated (excluding 911 calls) will have their calls routed to an automated system that facilitates service reactivation, if that is the consumer's desire. During the time period outlined above, TracFone proactively seeks to retain customers by sending email notifications, direct mail letters and voice blast messages to notify the customers of their non-usage status and potential service deactivation.

EXHIBIT E**TracFone's Current SafeLink Wireless® Lifeline Service Plans**

TracFone currently offers customers a choice of three different service plans:

- 1) 250 free minutes each month, which do not carry over to the next month if unused, with texting available at a rate of one text per minute of airtime;
- 2) 125 free minutes each month, which carry over to the following month if unused, with texting available at a rate of one text per minute of airtime;
- 3) 68 free minutes each month, which carry over to the following month if unused, with texting available at a rate of 3 texts per each minute of airtime, plus International Long Distance calling to over 60 destinations.

All minutes of airtime may be used to send or receive local calls, intrastate long distance calls, and interstate long distance calls (under the third option, the minutes may also be used to originate international calls to more than 60 destinations). The minutes may also be used for roaming with no additional roaming charges, so Lifeline customers will be able to use the service wherever they travel within the United States (assuming they are in areas with wireless coverage) either within or outside the State of Oregon. The service (irrespective of option selected) will include vertical features such as call waiting, caller ID, and voice mail.

EXHIBIT F
 QUARTERLY REPORT – OREGON LIFELINE CUSTOMERS
 Due by end of first month following end of quarter

		Month 1	Month 2	Month 3
	Non-Usage Report:			
	No. of Subscribers			
1	De-enrolled for 60-days non-usage			
2	Re-enrolled within 30-day grace period			
3	Deactivated due to end of 30-day grace period			
4	Re-enrolled after 30-day grace period ended			
	USAC Information:			
5	Reimbursable lines reported			
6	Reimbursement received			
	Handsets:			
7	No. of handsets reported lost/stolen			
	No. of lost/stolen handsets replaced			
8	No. of customers reporting they did not receive free handset			
	No. of replacement handsets sent			
9	No. of defective handsets reported			
	No. of replacement handsets sent			
10	No. of CDMA handsets sent to replace GSM handset			
11	No. of GSM handsets sent to replace CDMA handset			
12	No. of handsets shipped:			
	Before 20 th of month			
	On or after 20 th of month			
13	Service Requests: No. of unfulfilled service requests due to lack of adequate wireless service			

QUARTERLY REPORT – OREGON LIFELINE CUSTOMERS
Due by end of first month following end of quarter

		Month 1	Month 2	Month 3
14	No. of requests to port number in			
	No. of requests denied			
15	No. of requests to retain current number (pre-Lifeline number)			
	No. of requests denied			
16	No. of requests to port number out			
	No. of requests denied			
17	No. of requests to change calling plan			
	Customer Service Complaints/Problems*			
18	No service (incoming/outgoing)			
19	Dropped calls, service interruptions			
20	Poor reception			
21	Frequent busy signals			
22	Inadequate wireless coverage			
23	Problems relating to first month's free minutes or use			
24	Problems relating to subsequent month's free minutes or use			
25	Problems relating to airtime cards			
26	Other			
27	Total Number of Oregon Customer Calls from:			
	Current SafeLink customers			
	Others inquiring about SafeLink			
28	Customer Service Center: Average no. of minutes to reach representative			

* For each service call (complaint or problem) received from Oregon Lifeline customers included in items 18-25, report the following: a) customer's name and SafeLink phone number, b) date of call, c) description of complaint or problem, and d) explanation of disposition of complaint/problem and date.

QUARTERLY REPORT – OREGON LIFELINE CUSTOMERS
Due by end of first month following end of quarter**Usage Characteristics Report – Complete for each of three months in quarter**

		250 Min. Plan	125 Min. Plan	68 Min. Plan
1	No. of total active subscribers			
2	No. of subscribers that depleted all free minutes by month's end			
3	No. of subscribers that depleted all free minutes within first 15 days of the month			
4	Percentage of free minutes used for voice calls (customer average)			
5	Percentage of free minutes used for texts (customer average)			
6	Percentage of free minutes used for international calls (customer average)	N/A	N/A	
7	Number of customers who purchased additional minutes			
8	Average number of additional minutes purchased (for customers that purchased minutes)			

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1437

In the Matter of

TRACFONE WIRELESS, INC.

Application for Designation as an Eligible
Telecommunications Carrier.

SUPPLEMENTAL STIPULATION

This Supplemental Stipulation (the "Supplemental Stipulation") is entered into for the purpose of updating the Stipulation filed by the Parties on June 10, 2012 (the "Stipulation"). All capitalized terms herein have the same meanings as defined in the Stipulation.

1. On June 10, 2011, the Parties filed the Stipulation, resolving all issues in this proceeding. In the Stipulation, the Parties agreed that TracFone's Applications for ETC and ETP status, as modified by, and subject to, the terms and conditions set forth in the Stipulation would satisfy all applicable legal requirements and would be in the public interest. The Stipulation recognized that in order for the Commission to issue an Order approving the Stipulation certain RSPF rule provisions would have to be waived. The Parties filed Joint Testimony in support of the Stipulation on June 17, 2011 (the "Joint Testimony").

2. In a Ruling dated June 17, 2011, the Commission noted that approval of the Stipulation required the waiver of the rules identified by the Parties, and concluded that the addition of a waiver provision to Division 033 of the Commission's rules was required in order for the Commission to grant such waivers. The Commission also stayed further proceedings in this docket pending completion of a permanent rulemaking proceeding to add waiver provisions to Division 033. The Commission opened Docket AR 554 for this purpose and issued Order No. 11-346 on September 8, 2011, adopting waiver provisions in the Commission's rules. The

1 Commission then filed the new permanent rules with the Secretary of State and Legislative
2 Counsel on September 14 and 15, 2011, respectively.

3 3. The Stipulation required TracFone to make several compliance filings. TracFone
4 made all of the required compliance filings on October 11, 2011, October 31, 2011, and
5 December 19, 2011.

6 4. The Federal Communications Commission ("FCC") issued Order 12-11 on
7 February 6, 2012 (the "Lifeline Reform Order"). Among other things, the Lifeline Reform Order
8 eliminates Lifeline funding tiers 1, 2, and 3 from the FCC's rules and replaces them with a flat
9 \$9.25 per customer per month funding level for non-Tribal subscribers.

10 5. The Joint Testimony, at page 6, references sources of financial support for
11 TracFone's Lifeline service. While that testimony accurately reflected the sources of support as
12 of the date of the testimony, the Parties acknowledge that the Lifeline Reform Order has changed
13 those sources of funding to some extent, as reflected above.

14 6. Notwithstanding the changes imposed by the Lifeline Reform Order, TracFone
15 reaffirms its commitment to provide the service plans as reflected in the Joint Testimony and the
16 Stipulation, and to provide monthly support of \$3.50 for each of its Lifeline customers from its
17 own funds.

18 7. TracFone further agrees that it will (a) comply with all rules and regulations
19 applicable to it, including any new requirements that are applicable to it under the rules
20 promulgated by the FCC in the Lifeline Reform Order, and (b) work with Staff to accomplish
21 Staff's implementation of the requirements of the Lifeline Reform Order.

22 8. The Parties reaffirm their Joint Testimony and all terms of the Stipulation to the
23 extent not inconsistent with this Supplemental Stipulation and the Lifeline Reform Order, and
24 continue to request that the Commission approve the Stipulation and TracFone's Application as
25 soon as possible.
26

ORDER NO.

12 149

This Supplemental Stipulation is entered into by each Party as of the date(s) entered below:

TRACFONE WIRELESS, INC.



By: Lawrence Reichman

Its: Attorney

Dated: 4/16/12

STAFF OF THE PUBLIC UTILITY
COMMISSION OF OREGON



By: Jason Jones

Its: Attorney

Dated: 4/16/12

CITIZENS' UTILITY BOARD

By:
Its:
Dated:

OREGON OFFICE OF EMERGENCY
MANAGEMENT

By:
Its:
Dated:

1 This Supplemental Stipulation is entered into by each Party as of the date(s) entered
2 below:

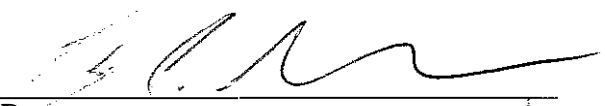
3 TRACFONE WIRELESS, INC.

4
5 By: _____
6 Its:
7 Dated:

8 STAFF OF THE PUBLIC UTILITY
9 COMMISSION OF OREGON

10
11 By: _____
12 Its:
13 Dated:

14 CITIZENS' UTILITY BOARD

15 
16 By: _____
17 Its: General Counsel
18 Dated: 4-16-2012

19 OREGON OFFICE OF EMERGENCY
20 MANAGEMENT

21 By: _____
22 Its:
23 Dated:

1 This Supplemental Stipulation is entered into by each Party as of the date(s) entered
2 below:

3 TRACFONE WIRELESS, INC.

4
5 By:
6 Its:
7 Dated:

8 STAFF OF THE PUBLIC UTILITY
9 COMMISSION OF OREGON

10
11 By:
12 Its:
13 Dated:

14 CITIZENS' UTILITY BOARD

15
16 By:
17 Its:
18 Dated:

19 OREGON OFFICE OF EMERGENCY
20 MANAGEMENT

21 By: Steven A. Wolf
22 Its: Legal Counsel
23 Dated: 04/13/2012
24
25
26