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FCC Grants TracFone Limited ETC Status

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The Commission has conditionally granted the petitions of TracFone Wireless, Inc. (TracFone) to be designated as an eligible telecommunications carrier (ETC) to receive universal service Lifeline support in its licensed service areas in New York, Virginia, Connecticut, Massachusetts, Alabama, North Carolina, Tennessee, Delaware, New Hampshire, Pennsylvania, and the District of Columbia. This decision acknowledges that wireless service can be useful in providing Lifeline service to low-income consumers especially in rural areas.

TracFone is a non-facilities-based commercial mobile radio service (CMRS) provider that offers prepaid wireless telecommunications service. The Commission had previously conditionally granted TracFone's request for forbearance from the facilities-based requirements of section 214(e)(1)(A) of the Act and section 54.201(k) of its rules for purpose of considering TracFone's petitions for limited ETC designation. Otherwise, TracFone provided the required showing that it complies with the eligibility requirements in the states in which the petitions were granted. The Commission determined that TracFone's services provide a variety of benefits to Lifeline-eligible consumers including increased consumer choice, high-quality service offerings, and mobility. It further determined that the prepaid feature essentially functions as a toll control feature and may be an attractive alternative to Lifeline-eligible consumers who are concerned about usage charges or long-term contracts. The Commission stressed that compliance with 911/E911 requirements applicable to wireless resellers must be met and conditioned TracFone's grant upon such compliance.

Under section 254(e) of the Act, TracFone is required to use the universal service support it receives only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Lifeline support therefore can be used to reduce the price of an ETC's telecommunications services by the amount of the support for the eligible consumer. To ensure that TracFone has met this requirement and the other conditions of forbearance from the facilities requirement, the Commission required TracFone to provide compliance plans and certifications to be provided periodically to the Commission. Additionally, the Commission may examine any ETC's records and

documentation to ensure that the universal service support an ETC receives is really being used for the purpose for which it was intended, so TracFone must be prepared to provide such documentation upon request.

This FCC action is interesting since scores of petitions by other carriers for ETC designation have been languishing at the Commission – sometimes for several years. The FCC has been reluctant to grant such designations because this would open the door to claims from those designees for Universal Support subsidies at a time when the Commission is already concerned about the growth in that support. (The Joint Board and now the Commission itself have been struggling with a comprehensive reform of the USF system that would control costs and better direct the subsidies.) By simply sitting on the petitions, the FCC has delayed having to pay out the subsidy which Congress intended ETCs to have. Here the FCC did grant the petition, but limited it to *Lifeline* support – a relatively small drain on the USF fund because the amount of the subsidy is so small. While other carriers with pending petitions could probably demand similar treatment, it is questionable whether the effort would justify the cost.