

**COMMENTS OF TRACFONE WIRELESS, INC. PROVIDED TO OFFICE OF  
REGULATORY STAFF PURSUANT TO 1976 CODE § 58-9-280(E)(11)(a)**

TracFone Wireless, Inc. (“TracFone”) provides the following information to the Office of Regulatory Staff (“ORS”). This information is for the purpose of providing input to ORS for preparation of its report to the Public Utilities Review Committee (“PURC”) regarding the need for State Universal Service Fund funding and the appropriate level of distributions.

One of the paramount purposes for the South Carolina Universal Service Fund (or for any state universal service fund) is to support affordable telecommunications service for low-income households. This is accomplished through a well-funded and vibrant Lifeline program with a multiplicity of providers competing to use federal and state support to deliver the greatest value to Lifeline-eligible low-income households.

Since becoming designated by the South Carolina Public Service Commission (“PSC”) as an Eligible Telecommunications Carrier in 2010, TracFone has emerged as the state’s largest provider of Lifeline service. Approximately 50,000 low-income South Carolina households receive wireless Lifeline service through TracFone’s SafeLink Wireless® program. TracFone’s pre-December 2016 Lifeline customers receive 500 minutes of wireless airtime per month. Customers enrolling after December 1, 2016 receive 350 minutes of voice service and 500 MB per month of mobile broadband Internet access service, plus a smartphone device (device provided at TracFone’s expense). Those services meet the Lifeline minimum service standards established in 2016 by the Federal Communications Commission (“FCC”) and are funded solely by the federal Universal Service Fund. Subsequent to TracFone’s successful entry into the South Carolina Lifeline market, other wireless providers also began to provide Lifeline service in the State. Today, well in excess of 90% of South Carolina’s low-income households participating in Lifeline have chosen to receive their Lifeline service from TracFone or other wireless providers. That mass migration from traditional wireline telephone company programs to wireless Lifeline reflects the existence of strong consumer preference for wireless solutions. ORS, the PURC and the PSC should remain mindful of South Carolinians’ overwhelming consumer preferences in considering what services to support with the State Universal Service Fund, and ensuring that there is sufficient State support for all qualified Lifeline programs serving low-income South Carolina households.

The PSC’s January 2016 order in Docket No. 2015-290-C (Order No. 2016-22) expanded the obligation to contribute to the State USF to all telecommunications service providers – wireline and wireless, postpaid and prepaid, traditional technology and Voice over the Internet Protocol. Now that the Legislature has required all telecommunications providers to contribute, it seems unfair, discriminatory and, most importantly, inconsistent with the interests of low-income South Carolinians, to limit Lifeline disbursements from the State fund to certain providers or to favor or disfavor certain technologies. It seems especially inappropriate to limit access to State support to those Lifeline providers who are labeled “carriers of last resort.” The definition of “carrier of last resort” contained at Section 58-9-10(10) of the 1976 Code simply is not relevant to Lifeline as Lifeline has evolved. Moreover, limiting State support to Lifeline providers who fall within that definition would violate federal law.

That definition begins with the words “a facilities-based local exchange carrier . . . .” Section 214(e)(1) of the federal Communications Act (47 U.S.C. § 214(e)(1)) requires that recipients of support from the federal USF provide service using their own facilities or a combination of their own facilities and resale of another carrier’s services. On its face, that requirement would seem consistent with Section 58-9-10(10). However, first, in 2005 and again in 2012, the FCC exercised its statutory obligation to forbear from application or enforcement of the “facilities” requirement of Section 214(e)(1). Section 10 of the federal Communications Act (47 U.S.C. § 160) prohibits the FCC from applying or enforcing any provision of the Communications Act or any regulation once a three part determination has been made. Importantly, Section 10(e) of the federal Communications Act (47 U.S.C. § 160(e)) prohibits any state commission from continuing to apply or enforce any provision of the federal Communications Act that the FCC has determined to forbear from applying. Nothing in Section 10 states or suggests that the scope of Section 10(e) would be limited to federal USF support.

The Section 58-9-10(10) definition of carrier of last resort mentions “basic local exchange telephone service” – a term defined at Section 58-9-10(9) to include access to basic voice grade local service, including available emergency services and directory assistance, access to operator services, and one annual directory listing.” That definition also seems anachronistic in 2017. Unlike wireline telephone service, with wireless service, there are no domestic calling restrictions. There is no such thing as “local” or “long distance” service as existed in the wireline world of the 20<sup>th</sup> Century. For example, TracFone Lifeline customers may use their Lifeline benefits to call across the street, across the state, or across the nation. Further, each of the service features included in the basic local exchange telephone service definition (except for directory listings which consumers of wireless services overwhelmingly do not want) are requirements of all Lifeline providers – wireline and wireless.

TracFone further directs the attention of ORS and PURC to Section 254(f) of the federal Communications Act (47 U.S.C. § 254(f)). That section explicitly authorizes state commissions to establish their own programs to advance universal service (including state Lifeline programs to assist low-income households). However, that delegation of authority by Congress to the state commissions is subject to one very specific and important condition: that any such regulations by a state commission not be inconsistent with the FCC’s rules to preserve and advance universal service. The federal Lifeline program is open to all qualified providers – wireline and wireless, facilities-based and resale. Imposition of a requirement which limits availability of State Universal Service Fund support to wireline telephone companies or carriers of last resort as defined in the statute would be inconsistent with requirements governing the federal program and therefore in violation of Section 254(f).

Accordingly, TracFone respectfully urges ORS, in preparing its report to PURC, to consider the applicable federal law requirements and that it advocate for sufficient funding to provide state Lifeline support to all Lifeline programs available to low-income households in South Carolina, including those of all providers without regard to technology (wireline or wireless) so that all South Carolina households participating in the Lifeline program have available services supported both by the federal USF and by the State fund.

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