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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF: )  
 )  
TRACFONE WIRELESS, INC. )  
 ) No. 09-0213  
Petition for Designation as an )  
Eligible Telecommunications )  
Carrier in the State of )  
Illinois for the Limited )  
Purpose of Offering Lifeline )  
Service to Qualified Households)

Chicago, Illinois  
June 2, 2009

Met pursuant to notice at 10:30 a.m.

BEFORE:

MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES:

GREENBERG TAURIG, LLP  
MR. MITCHELL F. BRECHER and  
MS. DEBORAH McGUIRE MERCER  
2101 L Street, NW, Suite 100  
Washington, DC 20037  
appeared for Petitioner;

MR. MATTHEW L. HARVEY  
160 North LaSalle Street  
Chicago, Illinois 60601  
appeared for Commission Staff.

SULLIVAN REPORTING COMPANY, by  
Teresann B. Giorgi, CSR

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I N D E X

<u>Witnesses:</u>	<u>Dir.</u>	<u>Crx.</u>	<u>Re-</u> <u>dir.</u>	<u>Re-</u> <u>crx.</u>	<u>By</u> <u>Examiner</u>
NONE					

E X H I B I T S

<u>APPLICANT'S</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
NONE		

1 JUDGE RILEY: Pursuant to the direction of  
2 the Illinois Commerce Commission, I call  
3 Docket 09-0213. This is a Petition by TracFone  
4 Wireless, Inc., for designation as an eligible  
5 telecommunications carrier in the State of Illinois  
6 for the limited purpose of offering lifeline service  
7 to qualified households.

8 Mr. Brecher, again, would you enter an  
9 appearance for the record.

10 MR. BRECHER: Mitchell F. Brecher of the law  
11 firm Greenberg Taurig, 2101 L Street, NW,  
12 Washington, DC, TracFone Wireless. Appearing with  
13 me is Deborah McGuire Mercer of the same law firm  
14 and same address.

15 JUDGE RILEY: Thank you.

16 Mr. Harvey?

17 MR. HARVEY: For the Commerce Commission Staff,  
18 Matthew L. Harvey, 160 North LaSalle Street,  
19 Suite C-800, Chicago, Illinois 60601.

20 JUDGE RILEY: Ms. Mercer, how do you spell your  
21 last name?

22 MS. MERCER: Mercer is M-e-r-c-e-r.

1 JUDGE RILEY: Thank you.

2 It's my understanding from Staff's  
3 reply, once again in Docket 09-0213, it feels that  
4 Petitioner has been unclear that it will collect  
5 lifeline reimbursement under 47 CFR 54407 and then  
6 provide services in that amount.

7 Staff, can you elaborate or is --

8 MR. HARVEY: Well, that's part of it. I  
9 think -- and to be fair, some of the issues that  
10 were raised in this -- or at least some of the  
11 information that we were in need of to make an  
12 assessment regarding this application was provided  
13 to us by other channels at roughly the same time I  
14 was filing this document.

15 I think our major concern at this  
16 point is we just need the fullest possible  
17 information regarding the TracFone lifeline offering  
18 before we can offer an assessment of it. And that  
19 would be -- I mean, it's set forth in, you know,  
20 Paragraph 5 of our initial response.

21 TracFone did provide to -- I'm not  
22 certain which of our Staff members, I think, in

1 response to another inquiry certain advertising  
2 materials and some particulars regarding the  
3 offering. It was done, frankly, on the same day  
4 that I was filing this, at roughly the same time. I  
5 regret that that was -- you know, I was acting  
6 without that information which I received on Monday.

7                   With that said, if TracFone is  
8 prepared to just provide us with whatever they've  
9 got about the offering, you know, tariffs -- you  
10 know, we've got some of the advertising materials,  
11 any tariffs they've filed on it, any -- I mean, I  
12 would expect that their position is that they're not  
13 obliged to file tariffs on it in Illinois. But we  
14 just need to see particulars of the offering.

15           JUDGE RILEY: Mr. Brecher?

16           MR. BRECHER: Yes. Thank you, your Honor.

17                   In our reply that we submitted  
18 yesterday we tried, as best we could, to respond to  
19 each of the specific questions that Staff raised  
20 regarding the details of the TracFone safe-link  
21 wireless lifeline program. And I think if you look  
22 at our response along with the prior submissions,

1 the petition itself and the other submissions we've  
2 made, I think we've provided all the details, but  
3 let me summarize them for you very quickly.

4           In Illinois, every safe-link wireless  
5 lifeline customer will receive from TracFone a free  
6 wireless handset -- telephone handset that's e 9-1-1  
7 compliant at no charge to the customer.

8           Each customer will receive from  
9 TracFone 61 minutes of airtime per month. Those  
10 minutes will roll-over if they're unused. Any  
11 unused minutes will roll-over from month to month so  
12 long as the customer remains enrolled in the  
13 lifeline program. Those minutes can be used for  
14 local calling, long-distance calling, interstate  
15 long-distance calling and international calling to  
16 60 -- I think it's slightly more than 60,  
17 destinations.

18           People ask about whether texting will  
19 be available. The answer to that is yes. The  
20 allocation of the charge for text messaging will be  
21 one-third of a minute per text message. So if a  
22 lifeline customer sends three text messages that

1 would result of a debit of one of his 61 minutes per  
2 month.

3 JUDGE RILEY: You're breaking up again.

4 MR. BRECHER: I'm sorry.

5 JUDGE RILEY: I don't know what -- it's kind of  
6 a mechanical -- a gap in there.

7 JUDGE RILEY: One of 61 --

8 MR. HARVEY: Minutes, I think --

9 MR. BRECHER: Did you get everything I've said  
10 up until the explanation of text messaging?

11 JUDGE RILEY: Yeah, I believe so.

12 MR. BRECHER: Okay. That's basically the  
13 program of customers -- lifeline customers will have  
14 the option, should they choose to do so, to purchase  
15 additional airtime minutes if their 61 minutes run  
16 out and they want more.

17 One of the things TracFone is doing is  
18 making available for use by safe-link wireless  
19 lifeline customers special low volume airtime cards.  
20 The way those cards work -- in lower denominations,  
21 denominations of 3, 5 and \$10 rather than the  
22 typical price, which would be \$20 and above and the

1 per minute charge -- the per minute price for  
2 airtime purchase with those cards would be 20 cents  
3 per minute, which is a favorable rate. Any purchase  
4 of additional airtime by TracFone -- by customers,  
5 excuse me -- by customers of TracFone's lifeline  
6 program will receive that 20 cents per minute rate  
7 no matter what the rate otherwise would be and those  
8 minutes will not expire, they will roll-over as is  
9 the case with the minutes that the customers  
10 receives at no charge each month.

11                   This is all spelled out in the  
12 petition and in the reply that we filed yesterday.  
13 I hope that that sufficient detail about the  
14 program -- if there are questions that either your  
15 Honor or Mr. Harvey has, either I or the folks on  
16 the line from TracFone will be happy to answer them.

17           JUDGE RILEY: Mr. Harvey, it doesn't seem to me  
18 that Staff's issues are terribly involved here.

19           MR. HARVEY: I'm first of all -- it's not clear  
20 to me where some of this stuff is clear on the face  
21 of the petition.

22                   But, you know, what we asked for was

1 just to review all of the materials that were  
2 associated with the offering. And, you know,  
3 insofar as that isn't clear from the face of the  
4 petition, and I would submit that it's really not,  
5 or at least some of it isn't, I think we've got a  
6 right to that.

7                   Again, if this can be -- and  
8 Mr. Brecher's explanation of it indicates that  
9 TracFone is in a position to readily produce this,  
10 maybe again it's possible to, you know, discuss the  
11 matter and see if we're asking for something that  
12 either we already have or is not -- you know, that  
13 TracFone has now elucidated, if you'll excuse my use  
14 of a fairly reporter unfriendly word.

15           JUDGE RILEY: That's pretty much my attitude  
16 right now. I don't think that Staff is that far  
17 apart. It's not that things haven't been submitted.  
18 You just want to know whether or not that they have  
19 and does it satisfy all aspects of the legislation.

20           MR. HARVEY: Well -- or more particularly of the  
21 rule and the order that we're obliged to -- well, I  
22 guess not strictly obliged, but have in the past in

1 all cases enforced.

2 JUDGE RILEY: Mr. Brecher, would you again be  
3 willing to discuss with Mr. Harvey just exactly the  
4 finer points of Staff's concerns here?

5 MR. BRECHER: I would, your Honor.

6 I would only say that in our reply we  
7 did attempt to address each of Mr. Harvey's issues  
8 one by one. And I would suggest that the petition  
9 as supplemented by the reply that we filed  
10 yesterday, which I understand to be part of the  
11 record in this proceeding, provides all of the  
12 details that can be provided regarding the specifics  
13 of the program.

14 Now, one thing that I did not address  
15 that I think may be implicit in what Mr. Harvey's  
16 response was directed at, is how -- where does the  
17 61 minutes come from? How can the Commission be  
18 assured that TracFone will be providing it's  
19 lifeline customers with 100 percent of the lifeline  
20 support that it receives. I think that that was of  
21 the things that Mr. Harvey was asking about. And  
22 let me just say a couple of things about that.

1                   No. 1, both in the petition and I have  
2 a page site, I believe it's Page 24 of the petition,  
3 and in our reply yesterday, TracFone said and resaid  
4 that it is certifying that 100 percent of the  
5 lifeline support it receives will flow through to  
6 lifeline customers in the form of lifeline benefits.

7                   Now let me explain, if there's any  
8 confusion about this, how that support is  
9 determined.

10                   The amount of support that an ETC is  
11 entitled to receive is set forth at Section 54403 of  
12 the FCC's rules. And it basically provides lifeline  
13 support in three tiers, there's a fourth tier, but  
14 that's not applicable here. It's limited to service  
15 at tribal lands.

16                   Of the three tiers, the first tier,  
17 which we call Tier 1 Support, is based on the  
18 current subscriber line charge of the incumbent wire  
19 line telephone company. As you may be aware, under  
20 the FCC's rules, the maximum allowable subscriber  
21 line charge is \$6.50 per month. Where an incumbent  
22 telephone company charges its customers a \$6.50 per

1 month subscriber line charge, ETCs are entitled to  
2 Tier 1 Support equal to that \$6.50 per month.

3                   Where the incumbent telephone company  
4 charges a subscriber line charge below \$6.50 per  
5 month, the ETC is entitled to Tier 1 Support of  
6 the -- equal to the actual subscriber line charge  
7 charged by the incumbent telephone company.

8                   In the State of Illinois my  
9 understanding is that most of the non-Bell, that is  
10 non-AT&T, incumbent telephone companies do charge  
11 the maximum capped amount of \$6.50; however, AT&T fk  
12 Illinois Bell fk Ameritech Illinois charges a lower  
13 amount. I don't recall the exact amount, but it is  
14 somewhere under \$6.50 per month.

15           MR. HARVEY: I think in two of its access area  
16 it may.

17           MR. BRECHER: That may be.

18                   Anyway, just so that you understand,  
19 when TracFone determines the amount of minutes it's  
20 going to provide it's lifeline customers, it takes  
21 the amount of Tier 1 Support in that state it will  
22 be receiving.

1                   So in the case of Illinois on a  
2 statewide basis, it will receive less than \$6.50 per  
3 month. In some parts of Illinois it would receive  
4 6.50 and other parts it would not. The 61-minute  
5 calculation is based on an average. TracFone is not  
6 going to have one set of lifeline benefits in one  
7 part of the state and another set of lifeline  
8 benefits in another part of the state. That is a  
9 statewide benefit.

10                   Does that clarify things at all?

11           MR. HARVEY: Somewhat. I think you've  
12 explained, sir, I guess what I would describe as the  
13 non-cost basis for it. But Staff will accept that  
14 that is the manner in which TracFone proposes to  
15 calculate this.

16           JUDGE RILEY: And is that contained in the  
17 petition, Mr. Brecher?

18           MR. BRECHER: Yes. I don't know that we go into  
19 that level of detail. Certainly the petition and  
20 yesterday's filing explained what the benefit will  
21 be and that it's based on a pass through of 100  
22 percent -- actually more than 100 percent of the

1 federal support that it will be receiving.

2 JUDGE RILEY: Staff, what is your position as of  
3 right now?

4 MR. HARVEY: Well, I think we can certainly try  
5 to work something out, you know, based on the  
6 representation that this is, you know, going to  
7 result in some sort of, you know, full allocation of  
8 the lifeline amount. I mean, I would have to  
9 discuss this with, you know, my client group. But I  
10 can certainly also discuss the matter more fully  
11 with Mr. Brecher and see if we can accommodate each  
12 other on this.

13 JUDGE RILEY: Mr. Brecher, does that sound  
14 reasonable to you?

15 MR. BRECHER: Yes, it does, your Honor.

16 And if it would be helpful,  
17 Mr. Harvey, I would be happy to speak to anybody  
18 from your client group so that everybody understands  
19 what the company is doing and how it's going about  
20 doing it.

21 MR. HARVEY: All right. It may not be  
22 necessary. I would have actually had some of them

1 on the phone today, but we've got another thing I'm  
2 actually supposed to be doing now, but. . .

3 MR. BRECHER: We're here to help in any way we  
4 can.

5 JUDGE RILEY: Can you bring that up again during  
6 your conversations on the 4th?

7 MR. HARVEY: We'll discuss the matter at  
8 1:00 o'clock on the 4th and determine whether we're  
9 at logger heads.

10 JUDGE RILEY: All right.

11 MR. BRECHER: I anticipate that we will get  
12 everything resolved. And I'm an incurable optimist.

13 MR. HARVEY: Speaks well for you, as an  
14 attorney.

15 JUDGE RILEY: Then I'm going to do the same  
16 thing with Docket 09-0213 that I did with 0211 and  
17 that is, again, set it for a status at 10:30 on  
18 June 17. But, again, if the parties can resolve  
19 their differences prior to that time, there would be  
20 no need for us to reconvene. Nothing more would be  
21 necessary than for me to prepare an order for the  
22 Commission.

1                   So I certainly urge the parties to use  
2 every effort to resolve whatever issues remain in  
3 Docket 09-0213.

4           MR. HARVEY: We will attempt to do that, your  
5 Honor.

6                   And as I say, should we successfully  
7 accomplish this, we will, hopefully, be able to  
8 advise you of that prior to the 17th --

9           JUDGE RILEY: Exactly.

10          MR. HARVEY: -- so that you can strike the  
11 existing dates.

12          JUDGE RILEY: Absolutely.

13                   Then let's leave it at that, then.  
14 Mr. Brecher and Mr. Harvey and whoever else is  
15 necessary, will get together telephonically on  
16 June 4 to discuss the various issues under 0211 and  
17 0213. And I will leave June 17 as a status date for  
18 each of these dockets at 10:00 an 10:30  
19 respectively.

20                   Hopefully, they will not be necessary  
21 for us to reconvene.

22          MR. HARVEY: Thank you, your Honor.

1 MR. BRECHER: Thank you, your Honor.

2 JUDGE RILEY: All right. Thank you. Take care.

3 (Whereupon, the above-entitled  
4 matter was continued to  
5 June 17, 2009 at 10:30 a.m.)

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