

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

TracFone Wireless, Inc.
Designated Eligible Carrier
Application

Case No. PU-24-19

ORDER ON ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

July 23, 2024

Preliminary Statement

On January 9, 2024, TracFone Wireless, Inc. (TracFone), a Delaware corporation with its principal offices located at 9700 NW 112th Avenue, Miami, FL 33178, filed an application for designation as an eligible telecommunications carrier (ETC) for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. This designation is also known as Lifeline-only ETC designation. TracFone proposes to provide Lifeline universal services to eligible low-income customers as a commercial mobile radio service (CMRS) carrier throughout every telephone exchange in North Dakota.

On February 7, 2024, the Commission issued a Notice of Opportunity for Hearing (Notice) providing until March 22, 2024, for comments and requests for hearing. No comments or requests for hearing were received. The Notice identified the issues to be considered in this matter are:

1. Is the applicant qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding?
2. What ETC universal service support area should be designated?
3. Is designation of the applicant as an ETC in the public interest?

The Notice stated that the Commission can determine the matter without a formal hearing.

On May 23, 2024, TracFone filed an amended Certification Relating to Order Provisions.

On May 23, 2024, the Commission held an Informal Hearing to discuss the issues with TracFone.

ETC Designation

The Telecommunications Act of 1996 provides financial support for universal services to common carriers that have been designated as ETCs and that (1) offer the universal services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services and (2) advertise the universal services, advertise the availability of such services, and advertise the charges for such services, using media of general distribution.

In its *Report and Order and Further Notice of Proposed Rulemaking* released February 6, 2012, in Docket No. FCC 12-11 at paragraph 368, the Federal Communications Commission (FCC) found that it would forbear from the "own-facilities" requirement contained in section 214(e)(1)(A) for carriers that seek to become, Lifeline-only ETCs, subject to the following conditions: (1) the carrier must comply with certain 911 requirements and (2) the carrier must file, and the FCC must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement Lifeline service obligations as well as further safeguards against waste, fraud, and abuse the FCC may deem necessary.

Under 47 CFR 54.201, a carrier seeking Lifeline-only ETC designation must demonstrate that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Part 54 Subpart E. TracFone is seeking Lifeline-only ETC designation.

Both federal law and state law give the Commission the authority to designate a common carrier as an ETC. In areas served by a rural telephone company, the Commission must find that ETC designation is in the public interest.

TracFone was organized and incorporated in the state of Delaware on May 9, 2007. TracFone is a common carrier of commercial mobile radio service and will offer all of the services and functionalities detailed in Section 54.101(a) of the FCC Rules. TracFone generates revenues from non-Lifeline services and has access to capital from its investors; and with its affiliated companies, currently provides services to approximately 16.5 million customers. Therefore, TracFone is not solely dependent on reimbursements from the Universal Service Fund. TracFone proposes to provide services to customers by using the underlying networks of its affiliate company Verizon Wireless as well as the networks of AT&T Wireless and T-Mobile in order to provide the best coverage and service available for subscribers. TracFone is currently authorized as a wireless ETC in the states of Alabama, Connecticut, District of Columbia, Delaware, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Tennessee, and Virginia.

TracFone will offer telecommunications services primarily to eligible low-income subscribers.

TracFone will offer plan options including unlimited anytime minutes, unlimited text messages and 10GB data at zero net cost to an eligible non-tribal Lifeline customer. TracFone will offer to all customers a free or discounted handset or SIM card, custom calling features at no charge including 911, Caller ID, Call Waiting, Voicemail, and the ability to use voice minutes for domestic long distance.

TracFone seeks only Lifeline support from the low-income mechanism of the federal Universal Service Fund and does not seek support from the high-cost support mechanism. This program is designed to reduce the monthly cost of telecommunication services for eligible consumers, is distributed on a per-customer basis, and is directly reflected in the price that the eligible customer pays. Because TracFone does not seek support from the high-cost support mechanism, designation of TracFone as a Lifeline-only ETC will not pose any adverse effect on the growth in the high-cost portions of the Universal Service Fund (USF), nor will it create or contribute to an erosion of high-cost funding from any rural or nonrural telephone company. Increasing the number of designated Lifeline-only ETCs in North Dakota will provide the opportunity for increased participation by eligible consumers in the Lifeline program.

North Dakota Administrative Code (NDAC) § 69-09-05-12(6)(a) requires a full description of available services in the ETC's official telephone directory. Since TracFone is a CMRS provider, it does not have an official telephone directory in North Dakota and requests a waiver from this requirement pursuant to NDAC §§ 69-09-05-12(2)(c) and (d).

The Certification Relating to Order Provisions as signed by Javier Rosado, Executive Director of Safelink and ACP and filed on May 23, 2024, is incorporated by reference, and attached to this order.

Consumers eligible for the Lifeline discounts offered by TracFone will receive the benefits of nationwide calling areas and the convenience and security of mobile telephone service. TracFone will bring increased customer choice and the benefits of competition.

Universal Service Support Area

The Commission must establish a geographic area (service area) for the purpose of determining universal service obligations and support mechanisms for the designated ETC. 47 U.S.C. § 214(e)(5).

The Act defines service area:

SERVICE AREA DEFINED-- The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service

area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

In its *Memorandum Opinion and Order*, FCC 13-44, released April 15, 2013, the FCC determined that carriers may be designated as a Lifeline-only ETC in partial rural service areas.

In this proceeding, TracFone is requesting ETC designation in all North Dakota telephone exchanges.

TracFone has demonstrated that it is financially and technically capable of providing Lifeline service in compliance with 47 Part 54 CFR Subpart E.

Based on the evidence in this proceeding, TracFone is qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E.

It is in the public interest that TracFone be designated as a Lifeline-only ETC within its coverage map in North Dakota.

TracFone is registered with the Commission to provide commercial mobile radio and long-distance services.

TracFone is registered with the Secretary of State of North Dakota and TracFone is in good standing.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes the following:

Order

The Commission orders:

1. TracFone Wireless, Inc. is designated as an eligible telecommunications carrier for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. The designated service area in this proceeding consists of all study areas in North Dakota.
2. TracFone Wireless, Inc. shall comply with the applicable annual reporting requirements set forth in North Dakota Administrative Code § 69-09-05-12.1.

3. Under North Dakota Administrative Code § 69-09-05-12(2)(c) and (d), TracFone Wireless, Inc. is granted a waiver of the requirements of North Dakota Administrative Code § 69-09-05-12(6)(a) regarding the publication of a full description of its services in an official telephone directory.

4. The May 23, 2024, Certification Relating to Order Provisions is incorporated by reference and attached to this Order.

5. Certification Relating to Order Provisions paragraph 16 is modified to state the following: TracFone will comply with all applicable annual reporting requirements associated with being an ETC in North Dakota including filing with the Public Service Commission a copy of each report filed with the FCC, within 30 days of filing with the FCC.

6. Certification Relating to Order Provisions paragraph 18 is modified to state the following: TracFone agrees to maintain the records to demonstrate that TracFone has complied with the requirements of the Public Service Commission's order(s) and that TracFone will preserve records demonstrating compliance for Public Service Commission inspection at any reasonable time upon reasonable notice.

PUBLIC SERVICE COMMISSION


Sheri Haugen-Hoffart
Commissioner


Randy Christmann
Chair


Julie Fedorchak
Commissioner

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

TracFone Wireless, Inc.
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Application

Case No. PU-24-19

**TracFone Wireless, Inc.
AMENDED CERTIFICATION RELATING TO ORDER PROVISIONS**

I am Javier Rosado, a representative of TracFone Wireless, Inc. (TracFone) with authority to bind TracFone and I certify that:

1. TracFone is seeking designation as a Lifeline-Only Eligible Telecommunications Carrier (Lifeline-Only ETC) throughout the State of North Dakota, including on federally-recognized Tribal lands, subject to coverage limits of the Verizon Wireless network. TracFone's proposed ETC designated service area is statewide in scope to allow TracFone to provide Lifeline service wherever it has wireless coverage. TracFone provided a list of ZIP codes as Exhibit 2 to its Application. TracFone's proposed ETC designated service area is not defined by incumbent telephone company wire centers.
2. For TracFone's proposed ETC designated service area, TracFone understands and agrees to the conditions and criteria set forth in Chapter 49-21 of the North Dakota Century Code and Chapter 69-09-05 of the North Dakota Administrative Code that pertain to Lifeline-Only Eligible Telecommunications Carriers, and TracFone will be responsible for compliance with this Certification, the Public Service Commission's order in this proceeding, and conditions and criteria set forth in the applicable federal and state laws and rules pertaining to Lifeline-Only ETCs.

The provision in Chapter 69-09-05 of the North Dakota Administrative Code requiring the ETC to describe services in the "carrier's official telephone directory" is not applicable because TracFone has no such directory.

3. TracFone agrees to comply with all statements, processes and procedures set forth in its Application for designation as a Lifeline-Only ETC in the designated service area. TracFone agrees that all statements made and matters set forth in its Application are true and correct to the best of TracFone's knowledge, information, and belief.
4. TracFone will use the federal low-income universal service support it receives only for the provision of services for which the support is intended.
5. TracFone meets all of the prerequisites to be designated as a Lifeline-Only ETC throughout the proposed ETC designated service area in this proceeding.

6. TracFone provides each of the services supported by federal universal service support mechanisms, specified in Federal Communications Commission's (FCC's) rules, 47 C.F.R. § 54.101, and will offer these supported services in North Dakota upon designation as a Lifeline-Only ETC, including voice grade access, minutes of use for local service at no additional charge, access to emergency services and toll limitation services.
7. TracFone will provide service on a timely basis to requesting customers within TracFone's proposed ETC designated service area.
8. TracFone will provide service within a reasonable period of time, if the potential customer is within TracFone's proposed designated ETC service area.
9. TracFone will not seek Universal Service Fund high-cost support for any telephone exchanges in its designated service area in North Dakota.
10. TracFone will use all available means to ensure customers are eligible for the Lifeline program at the time of sign-up and recertification in accordance with the federal eligibility criteria in 47 C.F.R. § 54.409 and the relevant proof documentation specified in 47 C. F. R. § 54.410. TracFone will check the National Verifier and the National Lifeline Accountability Database to prevent duplication and determine eligibility.
11. TracFone has taken, and will continue to take, steps to remain functional in emergency situations by: (1) maintaining a reasonable amount of backup power to ensure functionality without an external power source; (2) maintaining the ability to re-route traffic around damaged facilities and to manage traffic spikes resulting from emergency situations; and (3) establishing procedures for employees to follow in an emergency to prevent or minimize interruption or impairment of telecommunications services.
12. TracFone will meet or exceed applicable consumer protection and quality standards and will comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service
13. TracFone will advertise the availability of the supported services detailed in its Application, and the corresponding rates and charges, in a manner designed to inform the general public within North Dakota. This advertising will occur through a combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet.
14. TracFone will offer the services described in its Application.
15. TracFone understands and agrees that if TracFone has not advertised its Lifeline services or signed up any North Dakota customers within 12 months of the effective date of TracFone's designation as a Lifeline-only ETC, the Public Service Commission may revoke TracFone's Lifeline-only ETC designation and TracFone

Certification Relating to Order Provisions

Case No. PU-24-19

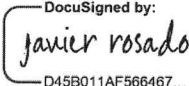
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may reapply to be designated as a Lifeline-only ETC In North Dakota.

16. TracFone will comply with all applicable annual reporting requirements associated with being an ETC in North Dakota including filing with the Public Service Commission a copy of FCC Form 555 and FCC Form 481 for North Dakota filed with the FCC, within 30 days of filing with the FCC.
17. TracFone understands and agrees that its ability to offer service is subject to suspension or revocation for failure to comply with the Public Service Commission's orders, or applicable statutes, rules, regulations, standards, and other authorizations.
18. TracFone agrees to maintain the records to demonstrate that TracFone has complied with the requirements of the Public Service Commission's order(s) and that TracFone will preserve records for three years demonstrating compliance for Public Service Commission inspection at any reasonable time upon reasonable notice.
19. TracFone understands and agrees that, to the extent there are any conflicts or inconsistencies between TracFone's Application and the provisions in this Certification, the Certification provisions control.

Dated this 17th day of May, 2024.

TracFone Wireless, Inc.

By:  _____
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Javier Rosado

Its Executive Director – SafeLink and ACP