

DATE MAILED

AUG - 7 2009

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSINPetition of TracFone Wireless, Inc., for Designation as an Eligible
Telecommunications Carrier in the State of Wisconsin

9385-TI-100

SUPPLEMENTAL FINAL DECISION

This is a Supplemental Decision on whether to designate TracFone Wireless, Inc. (TracFone), as an Eligible Telecommunications Carrier (ETC), pursuant to 47 U.S.C. § 214(e)(2) and Wis. Admin. Code § PSC 160.13. Designation as an ETC makes a provider eligible to receive Federal Universal Service Fund (USF) monies.

Introduction

TracFone filed a petition for designation as an ETC on September 18, 2008. The Public Service Commission (Commission) issued a Notice of Investigation and Request for Comments on October 30, 2008. The Commission discussed this matter at its April 16, 2009, open meeting, and issued its Final Decision on May 21, 2009.

The Commission, in open meeting, expressed concerns that TracFone had not adequately addressed the issue of credits to customers who are no longer using their phones. Therefore, the Final Decision required TracFone to submit a plan to rectify the problem, and delegated to the Administrator of the Telecommunications Division authority to approve that plan and establish filing requirements consistent with the plan. A list of parties to the docket is shown in Appendix A.

Findings of Fact

1. TracFone filed a plan, on July 7, 2009, to address Lifeline credits to customers who are not using their TracFone phone.
2. It is reasonable to accept TracFone's proposed plan and to require that TracFone abide by it.
3. It is reasonable to require TracFone to make quarterly filings on usage data, as described in the opinion section.

Conclusions of Law

The Commission has jurisdiction and authority under Wis. Stat. §§ 196.02 and 196.218; Wis. Admin. Code ch. PSC 160; 47 U.S.C. §§ 214 and 254; and other pertinent provisions of the Telecommunications Act of 1996 to make the above Findings of Fact and to issue this Supplemental Final Decision.

Opinion

TracFone is a wireless reseller and owns no facilities in Wisconsin. TracFone offers only pre-paid wireless service. Customers purchase a TracFone instrument initially and then buy minutes of use as needed. TracFone does not charge monthly rates or fees. When a customer uses all of the previously purchased minutes, the phone cannot be used until the customer buys additional minutes.

As an ETC, TracFone is required to provide Lifeline service. Traditionally, the Lifeline program provides a monthly discount to eligible low-income customers to make essential telephone service more affordable. TracFone, however, charges no monthly fees from which such a discount could be deducted. TracFone proposed providing the monthly discount in the

Docket 9385-TI-100

form of free minutes of use to such customers, and the Commission approved that proposal in its May 21st Final Decision.

Since TracFone charges no monthly fees, the Commission was concerned that customers who no longer used TracFone's phones would continue to receive Lifeline credits and the USF would continue to reimburse for those credits. The Commission directed TracFone to file a plan to address this issue.

Under the plan TracFone submitted, TracFone will monitor customer usage. If a Lifeline customer goes two months without using his/her phone, the phone will be deactivated and any outgoing call attempts will be routed to TracFone customer service. Customers will have a 30-day grace period during which they can be fully reinstated. Once a customer's phone has been deactivated for non-usage, TracFone will stop providing credits and seeking Lifeline reimbursement for that customer until and unless that phone is reactivated.

In order for the Commission to monitor the effectiveness of this plan, it is necessary that TracFone file information on customer activity. TracFone shall track the following information on a monthly basis and file reports with the Commission on a quarterly basis detailing the information for each of the previous three months. TracFone should report, for each calendar month:

- How many phones were deactivated after 60 days of non-usage
- How many business days elapsed between the 60th day and deactivation (reported as a range and an average)
- How many phones were reactivated within the 30 days grace period
- How many phones were reactivated, but were outside the 30 days grace period

The initial report should be filed by the end of November, 2009.

TracFone may request modifications to either its plan or the above reporting requirements. The Administrator of the Telecommunications Division may request changes to or approve such requests without reopening the orders in this docket.

This order constitutes acceptance and approval of TracFone's plan, as required in order point three of the May 21st Final Decision, subject to TracFone's agreement to comply with the reporting requirements in this supplemental final decision.

Order

1. TracFone shall abide by its plan for preventing reimbursement for Lifeline credits being paid to inactive customers or accounts, as filed on July 7th, 2009, or as subsequently revised and approved by the Administrator of the Telecommunications Division.

2. TracFone shall file, on a quarterly basis, the monthly data described in the above narrative.

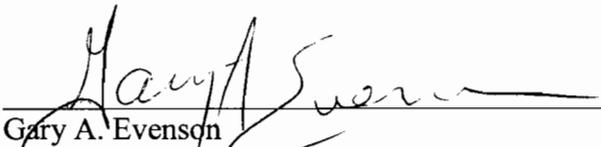
3. TracFone shall notify the Commission, within 20 days, whether it will comply with the reporting requirements in order point two. TracFone's designation as an ETC becomes effective the day after the Commission receives notice from TracFone that it will comply with the terms of this order.

Docket 9385-TI-100

4. This order is effective on issuance.
5. Jurisdiction is retained.

Dated at Madison, Wisconsin, 6 August 2009

For the Commission:



Gary A. Evenson
Administrator, Telecommunications Division.

SJP:GAE:PRJ:jrm\DL\Agency\Library\Orders\Pending\9385-TI-100 Supplemental Order.doc

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN
610 North Whitney Way
P.O. Box 7854
Madison, Wisconsin 53707-7854

**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of mailing of this decision, as provided in Wis. Stat. § 227.49. The mailing date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of mailing of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of mailing of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission mailed its original decision.¹ The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: December 17, 2008

¹ See *State v. Currier*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

APPENDIX A

This docket proceeding is not a contested case under Wis. Stat. ch. 227, therefore there are no parties as defined in Wis. Stat. § 227.01(8), to be listed or certified under Wis. Stat. § 227.47. However, the persons listed below are defined by Wis. Admin. Code § PSC 2.02(7), (10), and (12) as parties in the docket and participated therein.

Public Service Commission of Wisconsin
(Not a party but must be served)
610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

GREENBERG TRAURIG, LLP
Debra McGuire Mercer
Counsel for TracFone Wireless, Inc.
21101 L Street NW Suite 1000
Washington, DC 20037