

Minnesota Public Utilities Commission
Staff Briefing Papers

Meeting Date: **September 11, 2014**

*Agenda Item #____

Company: **TracFone Wireless, Inc.**

Docket No. **P6823/M-09-802**

In the Matter of a Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier (ETC) for the Limited Purpose of Offering Lifeline Service to Qualified Households

Docket No. **P6823/CI-10-519**

In the Matter of an Investigation into TracFone's Compliance with Remittance Responsibilities under Minn. Stat. §§403.11 and 237.52

Issues:

1. What action should the Commission take regarding TracFone's ETC application?
2. What action should the Commission take regarding the investigation into TracFone's compliance with remittance responsibilities under Minn. Stat. §§403.11 and 237.52?

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Relevant Documents

Order granting one-year conditional ETC designation and opening investigation..... June 9, 2010
Staff Briefing Papers for scheduled April 7, 2011 agenda meeting March 29, 2011
TracFone's request to hold cases in abeyance April 7, 2011
DPS' Notice of Settlement of Issues..... May 16, 2014
TracFone's Second Supplemental Compliance Filing..... June 19, 2014
Notice soliciting comments..... June 24, 2014

Comments

Department of Commerce.....July 24, 2014

Reply Comments

Open Access Connections..... August 4, 2014

TracFone August 4, 2014

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Statement of Issue

1. What action should the Commission take regarding TracFone's ETC application?
2. What action should the Commission take regarding the investigation into TracFone's compliance with remittance responsibilities under Minn. Stat. §§403.11 and 237.52?

Procedural Background

On July 1, 2009, TracFone Wireless (TracFone) filed a petition asking for designation as an eligible telecommunications carrier (ETC) for the limited purpose of offering Lifeline service to qualified households in Minnesota.

On June 9, 2010, the Commission issued its Order granting TracFone a one-year ETC designation limited to the provision of Lifeline service in Minnesota, and subject to certain conditions contained in the Order. At the same time, the Commission opened an investigation to determine whether TracFone is currently violating or had in the past violated Minn. Stat. §§403.11 and 237.52. The investigation is addressed in Docket No. P6823/CI-10-519.

On November 12, 2010, TracFone submitted its compliance filing advising the Commission of its compliance with the conditions set forth in the June 9, 2010 Order.

On November 16, 2010, the Commission issued a Notice soliciting comments on the compliance filings.

On December 21, 2010, TracFone filed supplemental compliance filings.

By January 7, 2011, the Commission received comments from the Department of Commerce (Department), joint comments from the Twin Cities Community Voice Mail, Energy Cents Coalition, Main Street Project, Minnesota Center for Neighborhood Organizing, Minnesota Coalition for the Homeless, Minnesota Community Action Partnership and Voices for Change (TCCVM and other organizations), and from TracFone.

The Department reviewed TracFone's compliance filing and found that, subject to further filings, TracFone had mostly satisfied all conditions except Conditions 7(d) and 8. TCCVM and other organizations provided comments solely on Condition 8, urging the Commission to resolve any

disagreement with TracFone regarding compliance with the 911 and TAM obligations, or settle it outside this proceeding so that TracFone can start providing Lifeline service in Minnesota.

The public comments received by the Commission mostly inquire when the Lifeline service as offered by TracFone will be available in Minnesota.

In supplemental filings on December 21, 2010, TracFone provided additional information regarding its compliance with issues raised in the Department's comments filed on December 6, 2010. TracFone also filed a revised informational tariff reflective of its response to the Department's comments.

TracFone's compliance filing and the status of its ETC designation application was scheduled for Commission consideration at the April 7, 2011 Commission meeting. Staff's Briefing Papers filed on March 29, 2011 noted that TracFone satisfied all the Commission's conditions, except

- Condition 7(d) requiring TracFone to explain the steps it will take to provide service to customers within its proposed service area but outside its existing network coverage, and
- Condition No. 8 regarding compliance with the collection and remittance provisions of Minn. Stat. §§403.11 and 237.52 related to 911 and TAM surcharges.

On April 7, 2011, the case was held in abeyance upon TracFone's request for postponement of Commission action.

While the case was on hold, the Federal Communications Commission (FCC) directed transformative changes affecting Lifeline and related programs. The FCC released the Connect America Fund/Intercarrier Compensation Reform Order (Connect America Order, CAF/ICC)¹ on November 18, 2011 and the Lifeline Reform Order² on February 6, 2012 both of which comprehensively reformed requirements and mechanisms affecting ETC designations, universal service, and Lifeline.

In Minnesota, starting January 1, 2014, customers of prepaid wireless phones and calling cards pay into 911 and TAM funds, with retailers collecting and remitting the fees to the Department of Revenue.

¹ FCC Report and Order and Further Notice of Proposed Rulemaking, *In the Matter of Connect America Fund, WC Docket No. 10-9-, et al*, released November 18, 2011.

² FCC Report and Order and Further Notice of Proposed Rulemaking, *In the Matter of Lifeline and LinkUp Reform and Modernization, WC Docket 11-42 et al*, released February 6, 2012.

On May 16, 2014, the Department of Public Safety (DPS) filed a letter indicating that 1) the agency has reached a settlement in its dispute with TracFone on the collection and remittance of 911 and TAM surcharges, 2) TracFone is not in arrears for any obligation, and 3) DPS withdraws its present objections to both the company's ETC designation and to the closing of the investigation case.

DPS also certifies that TracFone provides its Lifeline customers with

- access to 911 and E911 services regardless of activation status and the availability of prepaid minutes, and
- 911 and E911-compliant handsets and will replace at no additional charge for existing customers who have non-compliant handsets and have obtained Lifeline-supported services.

TracFone's Compliance Filing

On June 19, 2014, TracFone filed a Second Supplemental Compliance Filing addressing its compliance with the conditions listed in the Commission's June 9, 2010 Order, as well as new Lifeline-related FCC requirements.

The main issues brought up by TracFone are:

1. TracFone now fully complies with Condition 8 related to the collection and remittance of 911 and TAM fees.

The settlement with DPS had resolved the dispute about TracFone's 911 and TAM remittance obligations. DPS had certified that TracFone is not in arrears for any amounts it was obligated to collect and remit for 911 and TAM fees through May 6, 2014. TracFone has agreed to collect and remit 911 and TAM fees going forward.

2. TracFone requests that the Commission remove Condition 7(d) due to changes in the FCC rules on Lifeline.

Condition 7(d) states "Include a narrative description of the area in which TracFone proposes to offer service and explain the steps TracFone will take to provide service to customers within its proposed service area but outside its existing network coverage."

Due to changes in FCC rules since 2010, TracFone asks that Condition 7(d) should no longer be required.

In 2010, 47 CFR §54.202(a) required all ETC applicants to “commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service.” An ETC applicant was further required to certify that it would provide service 1) on a timely basis to potential customers who were within its service area, and 2) within a reasonable period of time to potential customers who were within the applicant’s licensed service area but outside its existing network coverage, if service could be provided at reasonable cost.

In 2011, the FCC revised §54.202(a) to delete the requirement that an ETC applicant certify that it will make service available to all customers making a reasonable request for service.

TracFone now asks the Commission to delete Condition 7(d) given that the regulatory basis for such condition no longer exists.

TracFone has also deleted, as recommended by Staff in the March 29, 2011 Briefing Papers, the following sentence from its informational tariff “TracFone does not guarantee coverage or service availability.” A revised informational tariff is provided by TracFone.

3. TracFone confirms compliance with current FCC Lifeline rules.

TracFone maintains that the Commission has already designated it as an ETC, and as soon as the Commission determines that the Company complies with the remaining conditions, TracFone may commence providing Lifeline. Nevertheless, TracFone states that it meets the current FCC requirements for ETC designation.

In the Connect America Fund Order,³ the FCC eliminated its former list of nine supported services and amended 47 CFR §54.101 to specify that “voice telephony service” is supported by federal universal service support mechanisms. The FCC also revised §54.101(a) to eliminate former service requirements now deemed obsolete.

In the Lifeline Reform Order,⁴ the FCC amended §54.202 to clarify certain additional requirements for ETC designation that apply to carriers seeking Lifeline-only ETC designation. The FCC now requires Lifeline-only ETC applicants to demonstrate the following: 1) its ability

³ Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 2011.

⁴ *In the Matter of Lifeline and LinkUp Reform and Modernization, et al.*, FCC Report and Order and Further Notice of Proposed Rulemaking, released February 6, 2012 in FCC 11-161.

to remain functional in emergency situations; 2) that it will satisfy applicable consumer protection and service quality standards, 3) that it is financially and technically capable of providing the Lifeline service, and 4) it has submitted information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers. The Lifeline Reform Order also amended aspects of Lifeline enrollment, annual re-certification of continued eligibility, and the bases for de-enrollment.

TracFone submits that it complies with the amended FCC rules, demonstrating the following:

- It offers all the services and functionalities required by the FCC rules, notably §54.101.
 - It provides voice grade access so that end users are able to transmit and receive voice communications, as required by §54.101(a).
 - It provides local usage via service offerings that bundle local and long distance minutes by service and does not distinguish between local and long distance calling. TracFone's Lifeline offering allows customer to use their free monthly airtime minutes to send and receive local calls at no additional charge.
 - It provides access to emergency services through its network of underlying carriers.
 - As a reseller of other carrier's wireless services, it has the ability to remain functional in emergency situations and its service is as reliable as that of any other wireless provider in Minnesota.
 - It will comply with the CTIA – The Wireless Association Consumer Code for Wireless Service, in accordance with §54.202(a)(3).
 - It has the financial and technical capability to be an ETC, as shown in its experience as an ETC since 2008 and in currently providing Lifeline service to over 4.2 million customers in 39 states. It currently has more than 25 million customers, and is 98%-owned subsidiary of America Movil, the fourth largest wireless telecommunications carrier in the world.
 - The availability of Lifeline Service's Terms and Conditions of Service, as provided in Exhibit 2.
 - It complies with Lifeline service requirements on enrollment and de-enrollment pursuant to §§54.405 and 54.409, and on eligibility certification and annual re-certification pursuant to §54.410.
4. TracFone requests Commission approval of its compliance plan so it can start providing Lifeline service in Minnesota.

TracFone believes that it now fully complies with the conditions in the Commission's June 9, 2010 Order and the current FCC rules governing Lifeline service. TracFone requests prompt

approval of its compliance filing as supplemented so that it can provide Lifeline service as soon as possible.

Parties' Responses to the Commission's Notice

The Department provided detailed responses to the questions listed in the Commission's Notice, and they are summarized below. The Department recommends Commission approval of TracFone's request to begin serving qualified Lifeline customers in Minnesota subject to certain customer service conditions.

TracFone and Open Access Connections (Open Access, formerly known as and filed early Comments as Twin Cities Community Voice Mail) submitted Reply Comments. Both did not specifically address the questions in the Notice but signified support to the Department's recommendation.

TracFone supports the Department's recommendation to approve TracFone's request for ETC designation for Lifeline-only purpose and begin serving qualified customers subject to certain customer service conditions. TracFone does not object to the Department's proposed customer service conditions and will comply with those.

Open Access Connections has provided free voice mail services to more than 66,000 homeless and low-income Minnesotans since 1994. Open Access believes that approving TracFone's ETC application would be in the public interest since an additional provider and increased competition among Lifeline providers will bring more choices for low-income consumers. It maintains that while 250 monthly minutes is insufficient to meet the needs of many low-income consumers, the offering is competitive with many other Lifeline providers. Open Access believes that TracFone should be required to provide usable phones, phone replacement information, instruction manuals, prompt customer service and accessible program information to their Lifeline customers. It states that it will monitor TracFone's compliance on these issues and will forward any future concerns to the Commission.

The Department's specific response to each question follows:

Question 1: Has TracFone sufficiently addressed all the conditions for ETC designation required in the Commission's June 9, 2010 Order?

The Department believes that Condition 8 has been resolved by the May 2014 agreement between DPS and TracFone. The Department agrees with TracFone that Condition 7(d) is no

longer necessary, considering that the legal basis for the requirement no longer exists and that TracFone provides service solely through the use of underlying networks. TracFone also commits to migrate a customer to another carrier network if the customer does not receive adequate service on one of its underlying carrier networks.

Thus, the Department agrees that TracFone has sufficiently addressed all conditions listed in the Commission's June 9, 2010 Order.

Question 2: Are there new FCC or Commission directives governing ETC designations and Lifeline service that became effective after the Commission's June 9, 2010 Order that TracFone should comply with?

The Department cites the FCC's Connect America Order or CAF-ICC and Lifeline Reform Order as FCC directives that revised the regulatory requirements for reviewing ETC designations.

The changes resulting from the Connect America Order include

- Eliminating the requirement that an ETC commit to provide service on a timely basis throughout its designated service area to requesting customers where the applicant's network already passes the potential customer's premises; and that the ETC certify as to the specific steps it will take to provide service to requesting customers who are within the applicant's service area but outside its existing coverage. The replacement requirement in §54.202(a)(1)(i) requires the carrier to "certify that it will comply with the service requirements applicable to the support that it receives."
- Eliminating the requirement for an ETC applicant to demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in service areas for which it seeks certification.
- Extending the modified requirements for FCC designation of ETCs in §54.202 to all state-designated ETC applicants on a prospective basis.

The Department lists the rule revisions from the Lifeline Reform Order affecting ETCs, notably Lifeline-only ETCs, related to provisioning, annual certifications, reporting, marketing, and other related requirements on pages 5 through 7 of its Comments. Regarding ETC designation, the major changes include

- Exempting Lifeline-only ETCs from the requirement to file a five-year service improvement plan and eliminated the requirement that an applicant certify that its handsets provide access to 911 and E911 service regardless of the activation status or the availability of airtime.

- Requiring them to demonstrate its financial and technical capability to provide the supported Lifeline supported services.
- Granting blanket forbearance from applying the facilities requirement to all telecommunications carriers seeking Lifeline-only ETC designation⁵, subject to the following conditions:
 - Each carrier must a) provide its Lifeline subscribers with 911 and E911 access, regardless of activation status and the availability of minutes b) provide its Lifeline subscribers with E911 compliant handsets and replace, at no charge, non-compliant handsets of Lifeline-eligible subscribers.
 - Each carrier must submit and receive FCC approval of a compliance plan providing “specific information about the carrier’s service offerings and outlining the measures the carrier will take to implement the obligations contained in the Lifeline Reform Order as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary.

The Department also notes that in more recent ETC designation dockets, for instance in the Telrite case⁶, the Commission heard the concerns by consumer advocates and added the following requirements in similar ETC designations:

- a) Customers should have access to usable phones. Frequent static or other interference on the line, lack of clarity, dropped calls, inability to place a call or receive a call under normal circumstances are not acceptable. If the buttons on phones are too small to use, for example, customers should have an opportunity to try a different make or model. Hearing-aid compatible handsets should be available to Lifeline-qualified customers, at no charge.
- b) Policies regarding repair, maintenance, replacement of handsets, batteries, and charges and options to purchase handsets should be clear to consumer, and available to consumers who do not have web access. TracFone should provide detailed information in writing, at the time of enrollment, of repair and replacement policies for phones and accessories (batteries, charges) and purchase options.
- c) Instruction manuals should be offered to consumers, and should be available upon request. It is not unreasonable to require that instruction manuals be provided to customers at the point of sale.

⁵ TracFone was granted earlier forbearance in FCC Order 05-465 dated September 8, 2004.

⁶ Order Granting ETC Designation dated November 28, 2012, *In the Matter of the Petition of Telrite Corporation for Designation as an Eligible Telecommunications Carrier*, Docket No. P6962/M-11-132

- d) Customers should have access to customer service without lengthy hold-times, and without use of air time minutes.
- e) Consumers should have access to information, via telephone as well as website on all Minnesota distribution events, locations and times.

Question 3: Should the Commission grant TracFone's request to remove the condition relating to a certification that the Company's service will be available to all customers making a reasonable request for service?

The Department recommends that Condition 7(b) be eliminated as requested by TracFone. It however does not relieve TracFone of the obligation, pursuant to 47 CFR §54.405 to make Lifeline service available to qualified low income consumers and to publicize Lifeline's availability to reach those likely to qualify for the service.

Question 4: What Commission actions are warranted related to the 09-802 and 10-519 cases?

In summary, the Department recommends the following:

1. Find that TracFone has fulfilled the conditions of the Commission's June 9, 2010 Order.
2. Eliminate Condition 7(d) of the Commission's June 9, 2010 Order as requested by TracFone.
3. Find that TracFone has provided sufficient information to demonstrate its compliance with current FCC rules and Commission Orders relating to ETC designation.
4. Approve TracFone's request to operate as a Lifeline-only ETC in Minnesota and begin serving qualified customers subject to the following conditions:
 - a) Customers should have access to usable phones. Frequent static or other interference on the line, lack of clarity, dropped calls, inability to place a call or receive a call under normal circumstances are not acceptable. If the buttons on phones are too small to use, for example, customers should have an opportunity to try a different make or model. Hearing-aid compatible handsets should be available to Lifeline-qualified customers, at no charge.
 - b) Policies regarding repair, maintenance, replacement of handsets, batteries, and charges and options to purchase handsets should be clear to consumer, and available to consumers who do not have web access. TracFone should provide detailed information in writing, at the time of enrollment, of repair

and replacement policies for phones and accessories (batteries, charges) and purchase options.

- c) Instruction manuals should be offered to consumers, and should be available upon request. It is not unreasonable to require that instruction manuals be provided to customers at the point of sale.
- d) Customers should have access to customer service without lengthy hold-times, and without use of air time minutes.
- e) Consumer should have access to information, via telephone as well as website on all Minnesota distribution events, locations and times.

As noted in its response to questions 1 and 3 above, the Department believes that TracFone has now satisfied the conditions of the Commission's June 9, 2010 Order.

The Department also believes that TracFone's June 19, 2014 filing demonstrates that it meets the following current ETC designation rules:

§54.101(a) Voice grade access to the public switched network

TracFone certifies, as required by the rule, that it "provide voice grade access to its end users so that they are able to transmit and receive voice communications." TracFone provides minutes of use for local service at no additional charge, and access to emergency services.

§54.202(a)(1)(i) Certification of compliance with the service requirements

TracFone has made adequate assurances that it will comply with the service requirements applicable to the low-income support it receives. TracFone is bound to comply with the FCC rules governing the provision of Lifeline service, including §§54.405 on publication, application and de-enrollment materials and procedures; 54.410 on determining subscriber eligibility and certifications; 54.416 on annual certifications; 54.417 on record keeping; and 54.422 on reporting.

§54.202(a)(2) Ability to remain function in emergency situations

TracFone provides assurance that it has the ability to remain functional in emergency situations. Its underlying providers include AT&T, T-Mobile, and Verizon, each of whom has provided certification in other dockets before the Commission that they have

reasonable amounts of back-up power, the ability to reroute traffic around damaged facilities and to manage traffic spikes caused by emergency situations.

§54.202(a)(3) Demonstration of ability to satisfy applicable consumer protection and service quality standards

The FCC has found that compliance with the Cellular Telecommunications and Internet Association (CTIA) Consumer Code is an adequate commitment to consumer protection and service quality standards. TracFone commits to comply with the CTIA Code. Some of the voluntary commitments included in the CTIA Code are:

- Disclosure of all rates, terms and conditions to consumers at the point of sale and on the carriers' websites.
- Making available coverage maps.
- Ready access during normal business hours to customer service through a toll-free telephone number.
- Written response within 30 days to consumer inquiries and complaints received from government agencies.

§54.202(a)(4) Demonstration of financial and technical capability

TracFone has provided sufficient information to show that it has the financial and technical ability to provide Lifeline service to qualified consumers in Minnesota.

§54.202(a)(5) Terms and condition of Lifeline offerings

TracFone's Lifeline offerings meet the requirements. The Commission has previously found Lifeline offerings of 250 free minutes adequate. In addition, TracFone has committed to offer in Minnesota the highest number of free minutes offered by TracFone in other jurisdictions.

§54.202(5) Public Interest

The Commission has previously concluded that TracFone's ETC designation is in the public interest, subject to the conditions listed in the June 9, 2010 Order.

Lastly, the Department notes that in recent ETC designation dockets, the Commission had incorporated its expectations regarding certain customer service policies and practices. The Department finds such policies and practices reasonable and appropriate

for application to other ETCs including TracFone. The Department recommends that the Commission include these expectations in its Order, as it has for other ETCs:

- a) Customers should have access to usable phones. Frequent static or other interference on the line, lack of clarity, dropped calls, inability to place a call or receive a call under normal circumstances are not acceptable. If the buttons on phones are too small to use, for example, customers should have an opportunity to try a different make or model. Hearing-aid compatible handsets should be available to Lifeline-qualified customers, at no charge.
- b) Policies regarding repair, maintenance, replacement of handsets, batteries, and charges and options to purchase handsets should be clear to consumer, and available to consumers who do not have web access. TracFone should provide detailed information in writing, at the time of enrollment, of repair and replacement policies for phones and accessories (batteries, charges) and purchase options.
- c) Instruction manuals should be offered to consumers, and should be available upon request. It is not unreasonable to require that instruction manuals be provided to customers at the point of sale.
- d) Customers should have access to customer service without lengthy hold-times, and without use of air time minutes.
- e) Consumer should have access to information, via telephone as well as website on all Minnesota distribution events, locations and times.

Staff Analysis

Issue 1: What action should the Commission take regarding TracFone's ETC application?

TracFone's position is that the Commission has already designated it an ETC, and that after complying with the remaining conditions of the June 9, 2010 Order, it may commence providing service in Minnesota. Nonetheless, TracFone demonstrated that it satisfies all the current requirements regarding Lifeline.

Staff believes that while the June 9, 2010 ETC designation was conditional and may have arguably expired in 2011, TracFone has now shown it complies with both the conditions of the Order and all the current Lifeline-related ETC designation requirements. TracFone also signifies it will comply with the Department's proposed customer service conditions. Thus, the

Commission's decisions today can be based on the satisfaction of both the 2010 conditions and the current ETC designation requirements.

A. TracFone now satisfies the conditions of the June 9, 2010 Order.

The most contentious issue in this case related to TracFone's obligation to collect and remit 911 and TAM fees pursuant to Minnesota laws.

TracFone satisfied this condition on two fronts: a) the settlement with DPS, where TracFone without admitting its obligation to collect or remit 911 and TAM fees in prior years, agreed to pay \$2.5 million to DPS for allocation between 911 and TAM funds, and b) a legislative initiative (in Minnesota and other states) for a point of sale collection for 911 fees for prepaid wireless telecommunications services, which in Minnesota successfully passed in 2013, pursuant to Minn. Stat. §403.161 and implemented starting January 1, 2014.

Staff also agrees with TracFone and the Department that Condition 7(d) is no longer necessary.

B. TracFone satisfies the current FCC ETC designation requirements.

There were changes in the regulatory landscape while TracFone's compliance with the Commission's Order was on hold. The FCC has reformed its policies and rules, particularly in 47 CFR §54 which provides the requirements for ETC designation. TracFone has also demonstrated its compliance with the current FCC requirements, including the following:

§54.101(a) Voice grade access to the public switched network

§54.202(a)(1)(i) Certification of compliance with the service requirements

§54.202(a)(2) Ability to remain function in emergency situations

§54.202(a)(3) Demonstration of ability to satisfy applicable consumer protection and service quality standards

§54.202(a)(4) Demonstration of financial and technical capability

§54.202(a)(5) Terms and condition of Lifeline offerings

§54.202(5) Public Interest

- C. TracFone commits to comply with certain customer service policies and practices also expected from other Lifeline-only ETCs.

Staff agrees with the Department and Open Access that TracFone should also satisfy the same customer practices and policies expected from other ETCs. TracFone has assured the Commission that it will also comply with these practices:

- a) Customers should have access to usable phones. Frequent static or other interference on the line, lack of clarity, dropped calls, inability to place a call or receive a call under normal circumstances are not acceptable. If the buttons on phones are too small to use, for example, customers should have an opportunity to try a different make or model. Hearing-aid compatible handsets should be available to Lifeline-qualified customers, at no charge.
- b) Policies regarding repair, maintenance, replacement of handsets, batteries, and charges and options to purchase handsets should be clear to consumer, and available to consumers who do not have web access. TracFone should provide detailed information in writing, at the time of enrollment, of repair and replacement policies for phones and accessories (batteries, charges) and purchase options.
- c) Instruction manuals should be offered to consumers, and should be available upon request. It is not unreasonable to require that instruction manuals be provided to customers at the point of sale.
- d) Customers should have access to customer service without lengthy hold-times, and without use of air time minutes.
- e) Consumer should have access to information, via telephone as well as website on all Minnesota distribution events, locations and times.

Issue 2: What action should the Commission take regarding the investigation into TracFone's compliance with remittance responsibilities under Minn. Stat. §§403.11 and 237.52?

Staff believes that the settlement with the DPS and the point of sale legislation have resolved the issues raised in the 10-519 case, and that docket can now be closed.

Commission Options

1. What action should the Commission take regarding TracFone's ETC application?
 - A. Approve TracFone's ETC application.
 - B. Approve TracFone's ETC application with the following conditions recommended by the Department:
 - a) TracFone shall provide customers with access to usable phones. Frequent static or other interference on the line, lack of clarity, dropped calls, inability to place a call or receive a call under normal circumstances are not acceptable. If the buttons on phones are too small to use, for example, TracFone shall provide customers an opportunity to try a different make or model. TracFone must make hearing-aid compatible handsets available to Lifeline-qualified customers, at no charge.
 - b) Policies regarding repair, maintenance, replacement of handsets, batteries, and charges and options to purchase handsets must be clear to consumers, and available to consumers who do not have web access. TracFone shall provide detailed information in writing, at the time of enrollment, of repair and replacement policies for phones and accessories (batteries, charges) and purchase options.
 - c) TracFone shall provide instruction manuals to its Lifeline customers.
 - d) TracFone shall provide its customers access to customer service without lengthy hold-times and without use of airtime minutes.
 - e) TracFone shall provide consumers with access to information, via telephone as well as website, on all Minnesota distribution events, locations and times.
 - C. Deny TracFone's ETC application.
 - D. Other action determined by the Commission.

2. What action should the Commission take regarding the investigation into TracFone's compliance with remittance responsibilities under Minn. Stat. §§403.11 and 237.52?

A. Close the investigation in Docket 10-519.

B. Other action determined by the Commission.

Staff Recommendations

Staff recommends Options 1.B (a-e), and 2.A.