

ORIGINAL



STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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| IN THE MATTER OF THE PETITION OF) TRACFONE WIRELESS, INC. FOR) DESIGNATION AS AN ELIGIBLE) TELECOMMUNICATIONS CARRIER IN) THE STATE OF INDIANA FOR THE) LIMITED PURPOSE OF OFFERING) LIFELINE SERVICE TO QUALIFIED) HOUSEHOLDS) | CAUSE NO. 41052 ETC 54 APPROVED: MAR 26 2014 |
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ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
David E. Veleta, Administrative Law Judge

On August 22, 2013, TracFone Wireless, Inc. (“TracFone”) filed its Petition to Amend Designated Eligible Telecommunications Carrier Service Area (“Petition”) with the Commission to amend its designation as an Eligible Telecommunications Carrier (“ETC”) to include in its service area all 136 zip codes located in rural LEC (“Local Exchange Carrier”) territories excluded from TracFone’s original designated service area.

On June 29, 2011, the Indiana Utility Regulatory Commission (“Commission”) issued an Order on ETC Application in Cause No. 41052 ETC 54 (“ETC Order”), designating TracFone, a reseller of commercial mobile radio service (“CMRS”), as an ETC for the limited purpose of participation in the Universal Service Fund’s Lifeline program.

The ETC Order required that TracFone, among other things, provide a description of its proposed ETC designated service area as part of a compliance plan, which it did on August 11, 2011. The designated service area description excluded 136 zip codes located in rural LEC territories in which TracFone did not serve the entire rural LEC study area. The Commission approved TracFone’s compliance plan in October 2011.

The Federal Communications Commission (“FCC”), on April 15, 2013, released an Order granting forbearance for Lifeline-only ETCs from the requirement in 47 U.S.C. §214(e)(5) and 47 C.F.R. § 54.207(b) that the service area of a competitive ETC conform to the service area of rural LECs serving the same area. *See Telecommunications Carriers Eligible for Support et al.*, Memorandum Opinion and Order, 28 FCC Rcd 4859 (2013) (“FCC Order”). Thus, competitive Lifeline-only ETCs need not be able to serve an entire LEC study area in order to provide Lifeline discounted service anywhere in the rural LEC’s study area.

TracFone filed its case-in-chief, consisting of the direct testimony of Stephen Athanson, TracFone’s Regulatory Counsel, on January 30, 2014. Subsequently, on February 14, 2014, the OUCC filed its Notice of Intent Not to Prefile Testimony and Reservation of Right to Conduct Cross-Examination at Hearing.

Pursuant to notice as required by law, an Evidentiary Hearing was held on March 4, 2014 at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the Hearing, TracFone's evidence was admitted into the record without objection. No member of the public appeared or attempted to participate at the Evidentiary Hearing.

1. Commission Notice and Jurisdiction. Due, legal and timely notice of the hearing in this Cause was given and published by the Commission as provided by applicable law. The proofs of publication of the notice of the hearing have been incorporated into the record of this proceeding. Pursuant to the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, *et seq.*, (the "Act"), and applicable FCC rules, including 47 C.F.R. § 54.201, the Commission is authorized to designate Indiana ETCs thereby enabling those so designated to apply for Universal Service support under 47 U.S.C. § 254. The Commission's jurisdiction in this case is also based on Ind. Code § 8-1-2.6-13(c)(5). The Commission therefore has jurisdiction over the subject matter of this Cause.

2. TracFone's Characteristics. TracFone is a corporation organized and formed under the laws of the State of Delaware. Its corporate headquarters are located in Miami, Florida. TracFone resells CMRS service throughout the United States, including Indiana, provided to TracFone by other communication service providers pursuant to contractual agreements between TracFone and those other providers. TracFone was authorized as a CMRS provider in Indiana on August 4, 2010 in Cause No. 43732. For purposes of federal Universal Service support, the FCC previously determined that TracFone is a non-facilities-based "pure" reseller of telecommunications service, *i.e.*, a Mobile Virtual Network Operator.

3. Relief Requested. TracFone requests that the Commission amend TracFone's ETC designated service area so that TracFone can include additional portions of its service area in the State of Indiana.

4. Summary of Evidence. Mr. Athanson, TracFone's Regulatory Counsel, testified on behalf of TracFone. Mr. Athanson described TracFone's organization and business and stated that TracFone is a 98 percent-owned subsidiary of America Movil, which is the third largest wireless telecommunications carrier in the world. TracFone is the largest provider of prepaid wireless service in the United States under various brands, including SafeLink Wireless.

TracFone has been designated, by the Commission, as an ETC for the limited purposes of participation in the Universal Service Fund's Lifeline program, pursuant to its initial Indiana Lifeline-only ETC Order. The ETC Order provided that TracFone's revised designated service area would be identified in a subsequent filing in accordance with Paragraph 6.A.4 on pp. 11-12 of TracFone's original ETC Order. That ETC Order further provided that "TracFone shall revise its designated service area to omit study areas of rural telephone companies that cannot be completely served by TracFone's virtual network"

TracFone made its compliance filing in accordance with the ETC Order on August 11, 2011, which described its designated service area as all of Indiana with the exception of 159 listed zip codes. Of these 159 excluded zip codes, 23 of these zip codes are non-rural LEC territories in which TracFone did not have complete coverage. The remaining 136 zip codes are in rural LEC territories in which TracFone did not serve the rural LEC's entire study area. The Commission staff approved TracFone's compliance plan, and thus TracFone began providing Lifeline service in

Indiana.

Subsequently, the FCC Order granted forbearance from the requirement that the service area of a Lifeline-only CMRS competitive ETC conform to the entire service area of rural LECs serving the same area. This FCC Order further provided that a “carrier may petition the appropriate designating entity to adjust its service areas in accordance with this grant of forbearance.”

Mr. Athanson’s testimony included Exhibit SA-1, which provided a list of the twenty-three (23) non-rural LEC territory zip codes that will remain excluded from TracFone’s designated service area.

5. Commission Discussion and Findings. Based on the evidence of record, the Commission has determined that all 136 zip codes located in rural LEC territories may be and hereby are incorporated into and made a part of TracFone’s service area, in accordance with the FCC Order. However, the Commission needs to know what areas ETCs are serving, as well as to receive this information in a consistent format so that it may compare with other ETCs. Thus, for consistency, the Commission orders that TracFone update its designated service area by providing a list of Incumbent LEC service areas (both rural and non-rural) that it serves. Further, if TracFone’s wireless coverage area has changed since the coverage area submitted in its compliance plan on August 11, 2011, TracFone should submit an updated wireless coverage map.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION, that:

1. TracFone’s designated service area, in accordance with the FCC Order, is hereby expanded to include all of the State of Indiana except the twenty-three (23) zip codes in non-rural LEC territories, as indicated on Exhibit SA-1 of the Athanson Testimony.
2. TracFone shall provide a list of ILEC service areas (both rural and non-rural) that it serves; and any changes to its wireless coverage area, within thirty (30) days of this Order.
3. This Order shall be effective on and after the date of its approval.

ATTERHOLT, MAYS, STEPHAN, AND ZIEGNER CONCUR; WEBER NOT PARTICIPATING:

APPROVED: **MAR 26 2014**

I hereby certify that the above is a true and correct copy of the Order as approved.



**Brenda A. Howe
Secretary to the Commission**