

**BEFORE THE  
NEW YORK STATE PUBLIC SERVICE COMMISSION**

Petition of	)	
	)	
TRACFONE WIRELESS, INC.	)	
	)	Case 18-C-_____
For Approval to Participate in State Lifeline	)	
Program and Receive Distributions from	)	
Targeted Accessibility Fund	)	
	)	

**PETITION**

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**PETITION**

TracFone Wireless, Inc. (“TracFone”) respectfully requests that the New York State Public Service Commission (“Commission”) (1) authorize TracFone to provide wireless Lifeline service pursuant to New York State’s Lifeline program and (2) authorize TracFone to receive distributions from the Targeted Accessibility Fund (“TAF”) in the amount of \$11.00 per household per month in order to fund TracFone’s enhanced service offering. TracFone is eager to launch this enhanced service offering in the near future in order to benefit low-income New Yorkers as soon as possible.

As detailed below, TracFone currently offers Lifeline service in New York State—branded as SafeLink Wireless (“SafeLink”)—with funding limited to federal Universal Service Fund (“USF”) support of \$9.25 per household per month. TracFone provides affordable telecommunications service to consumers to whom wireless service is otherwise unavailable or impracticable. With this Petition, TracFone proposes to expand its service offering in New York State by substantially increasing voice and data usage allowances to

eligible households in the state. TracFone will become a contributor to the TAF once TracFone is approved to receive New York State Lifeline funds from TAF.

TracFone files this Petition pursuant to new Public Service Law § 92-h (“Section 92-h”). This statute expands New York State’s Lifeline program to allow wireless telecommunications providers to offer wireless Lifeline service, regardless of whether the provider is a facilities-based provider, and to receive distributions from TAF.<sup>1</sup>

As demonstrated herein, TracFone meets all statutory requirements for participation in the New York State Lifeline program and the receipt of funds from TAF. TracFone respectfully requests that the Commission approve this Petition expeditiously so that TracFone may begin providing enhanced SafeLink to New York households as soon as possible.

## I. DESCRIPTION OF THE PETITIONER

TracFone is incorporated under the laws of the State of Delaware and is headquartered in Miami, Florida. A copy of TracFone’s certificate of incorporation is included as Attachment A to this petition. Its corporate offices are located at 9700 N.W. 112th Avenue, Miami, Florida 33178. TracFone is a wholly-owned subsidiary of America Movil (traded on the New York Stock Exchange under stock symbol AMX), one of the largest wireless telecommunications providers in the world.

TracFone is a reseller of commercial mobile radio service (“CMRS”) throughout the United States, including New York State. TracFone is the nation’s leading provider of prepaid

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<sup>1</sup> N.Y. PUB. SERV. LAW § 92-h (McKinney 2017).

wireless service, and the fifth largest wireless carrier overall, with more than 23 million subscribers nationwide. TracFone provides Lifeline service, which TracFone brands as SafeLink Wireless (“SafeLink”), to approximately 328,000 households in New York State.

TracFone provides wireless service by reselling services obtained from licensed operators of facilities-based CMRS networks. TracFone has provided CMRS on a resale basis throughout New York State continuously since the late 1990s. In New York, TracFone obtains service from the following facilities-based carriers: AT&T Mobility, T-Mobile, and Verizon Wireless. TracFone’s arrangements with these providers enable it to offer services wherever any of those providers offer service in New York State.

In 2008, the Federal Communications Commission (“FCC”) designated TracFone as an Eligible Telecommunications Carrier (“ETC”) in New York State for the sole purpose of providing Lifeline service.<sup>2</sup> The FCC’s order is subject to conditions set forth in a separate order waiving the statutory requirement that TracFone own the facilities on which its service is based (as explained above, TracFone *resells* facilities-based wireless telecommunications service, but does not own the facilities itself).<sup>3</sup> Since becoming certified as an ETC, TracFone has provided SafeLink service to eligible recipients in New York under the federal USF. TracFone started providing broadband service and smartphones to SafeLink households in 2016.

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<sup>2</sup> *In the Matter of Federal-State Joint Board on Universal Service: TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York, et al.*, 23 FCC Rcd 6206 (2008) (granting TracFone’s ETC Petitions for Alabama, Connecticut, Delaware, District of Columbia, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Tennessee, and Virginia).

<sup>3</sup> *In the Matter of Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Forbearance from 47 USC § 214(e)(1)(A) and 47 CFR § 54.201(i)*, 20 FCC Rcd. 15095 (2005).

Since receiving its initial ETC designations in 2008, TracFone has been designated as an ETC to provide Lifeline service in forty-two states, the District of Columbia, and Puerto Rico. With approximately 3.2 million low-income households currently enrolled in SafeLink, TracFone is the largest provider of Lifeline service in the nation—wireline or wireless. TracFone is also the nation’s largest mobile virtual network operator providing national 4G LTE coverage.

## II. DESIGNATED CONTACTS

Questions, correspondence, or other communications concerning this Petition should be directed to the following people:

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## III. DESCRIPTION OF SERVICE OFFERING

Currently, TracFone’s SafeLink offering in New York includes 350 voice minutes, unlimited text messaging, 1 gigabyte (“GB”) of data usage, and a free smartphone (or SIM card, if the subscriber already has a phone). This offering is entirely supported by the federal Universal Service Fund (“USF”), which is limited to \$9.25 per household per month.<sup>4</sup> With TAF support of an additional \$11.00 per household per month, TracFone proposes to increase

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<sup>4</sup> 47 C.F.R. § 54.403(a)(1).

its SafeLink offering in New York State to include all of the existing service components plus unlimited calling and up to twice as much data usage. Table 1, below, is a comparison of the current and proposed SafeLink offering:

**Table 1:** Comparison of Current v. Proposed Monthly SafeLink Offering

<b>Service Component</b>	<b>Current SafeLink Offering</b>	<b>Proposal for Expanded SafeLink Offering in NY</b>
<b>Voice Minutes</b>	350 minutes	Unlimited
<b>Text Messaging</b>	Unlimited	Unlimited
<b>Data Usage</b>	1 GB (or 1.5 GB per month for the first three months (and 1 GB thereafter) if subscriber uses own phone)	2 GB
<b>Smartphone, or SIM Card (if subscriber uses own phone)</b>	Free	Free
<b>Retail Value of Service</b>	\$9.25 per household	\$20.25 per household
<b>Funding Source</b>	Federal USF only	Federal USF and NYS TAF

The handset that new customers will receive is a WiFi-enabled Android smartphone. Following FCC guidelines, the handset at minimum will have the ability to be used as a mobile “hotspot” to support other devices, including tablets and laptops.

To support this expanded service offering, TracFone seeks the Commission’s approval for distributions from TAF of \$11.00 per household per month. This level of funding is necessary in order to support the service components of unlimited voice and incremental 1 GB (or 0.5 GB, for the first three months for users with their own phone) of data usage. The unsubsidized retail rate for TracFone’s service offering would be \$20.25 per month.

Federal USF funding already covers \$9.25 of this amount; therefore, TracFone seeks to recover the remaining \$11.00 from TAF.

In combination with the speed and space of the Android smartphone, TracFone's enhanced service offering will provide New Yorkers far greater ability to participate in our increasingly digital environment.

#### IV. LEGAL BASIS FOR APPROVING REQUEST

During the 2017 Regular Session, the state Senate and Assembly voted unanimously to expand New York State Lifeline. The new law became effective upon the Governor's signature on November 29, 2017. Prior to this expansion, only wireline carriers were eligible to receive New York State Lifeline support. Legislators recommended changing the law because the restriction on wireless participation in the state Lifeline program had become "obsolete."<sup>5</sup> Expanding the program to wireless companies would "increase consumer choice and unlock the Lifeline marketplace to encourage participation by broadband providers."<sup>6</sup>

Under the new law, a wireless service provider may participate in the state Lifeline program so long as the wireless service provider has been designated as an ETC in the state.<sup>7</sup> The FCC designated TracFone as an ETC throughout New York State in April 2008.<sup>8</sup> Therefore, TracFone is qualified to participate in the state Lifeline program.

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<sup>5</sup> 2017 N.Y. Senate Bill No. 5192, Committee Report (Mar. 14, 2017).

<sup>6</sup> *Id.*

<sup>7</sup> N.Y. PUB. SERV. LAW § 92-h (McKinney 2017).

<sup>8</sup> *In the Matter of Federal-State Joint Board on Universal Service: TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York, et al.*, 23 FCC Rcd. 6206 (2008).

As the nation's leading wireless provider of Lifeline, and a proven provider in this state already, TracFone is well-positioned to offer enhanced capability once the Commission authorizes TracFone to receive distributions from TAF.

#### V. APPROVAL OF THIS REQUEST IS IN THE PUBLIC INTEREST

In addition to meeting the basic qualifications for participating in the expanded state Lifeline program, TracFone's Petition to offer enhanced wireless Lifeline serves the public interest by helping confront the "digital divide." The proposed service meets the needs of low-income households and addresses continued growth in the importance of mobile broadband access.

Low-income households are very reliant on wireless telecommunications services, including mobile broadband. Many SafeLink households use the service as their sole telecommunications service.<sup>9</sup> In fact, wireless service often makes more sense to many of these low-income users because they may be housing unstable, so a wireline service does not suit their needs.<sup>10</sup> Like other households, low-income households want wireless service because of the convenience and accessibility that it provides.<sup>11</sup> In New York State as a whole, in 2016 fully one-third of households adults used only a wireless service and have no

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<sup>9</sup> See *In the Matter of Lifeline and Link Up Reform Modernization*, 27 FCC Rcd. 6656, ¶ 15 (2012) ("Indeed, many low-income consumers have stated in our record that without a Lifeline subsidy, they would be unable to afford service.").

<sup>10</sup> *Id.* ¶¶ 87, 88 (2012) (recognizing that many Lifeline recipients have temporary living arrangements, such as temporary shelters, and may not have a permanent address recognized by the post office).

<sup>11</sup> 2017 N.Y. Senate Bill No. 5192, Committee Report (Mar. 14, 2017) ("Lifeline customers overwhelmingly prefer mobile service to the traditional land line phone service. The national trends indicate that the majority of Lifeline customers prefer wireless plans, and the traditional Lifeline service has been in decline.").



landline service; for those under 18, the figure is 40%.<sup>12</sup> This number will only continue to grow.<sup>13</sup> Further, because low-income households substitute with wireless at a higher rate than the average household,<sup>14</sup> these figures are almost certainly conservative.

Even though low-income adults are more dependent on wireless technology, they have lagged behind other adults in access to broadband. In late 2016, only 53% of adults with annual incomes of less than \$30,000 had access to home broadband; for adults with annual incomes of \$30,000–\$99,999 or above \$100,000, that figure rises steeply to 80% and 93%, respectively.<sup>15</sup> Similarly, only 64% of low-income adults had access to broadband via their smartphone, whereas as many as 95% of higher-income adults had such access.<sup>16</sup>

Moreover, while voice minutes and text messaging capability are crucial wireless services, wireless data usage is growing significantly. In 2016, average smartphone data usage

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<sup>12</sup> Centers for Disease Control, National Center for Health Statistics, National Health Interview Survey Early Release Program, Wireless Substitution: State-Level Estimates from the National Health Interview Survey (2016 data), [https://www.cdc.gov/nchs/data/nhis/earlyrelease/Wireless\\_state\\_201712.pdf](https://www.cdc.gov/nchs/data/nhis/earlyrelease/Wireless_state_201712.pdf).

<sup>13</sup> Centers for Disease Control, National Center for Health Statistics, National Health Interview Survey Early Release Program, Wireless Substitution: Early Release of Estimates from the National Health Interview Survey (January–June 2017), <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201712.pdf> (noting that more than one-half of American homes—including more than 70% of renters and nearly 75% of all adults aged 25–34—had only wireless telephones during the first half of 2017).

<sup>14</sup> Centers for Disease Control, National Center for Health Statistics, National Health Interview Survey Early Release Program, Wireless Substitution: Early Release of Estimates from the National Health Interview Survey (July–December 2016), <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201705.pdf> (“Adults living in poverty (66.3%) and near poverty (59.0%) were more likely than higher income adults (48.5%) to be living in households with only wireless telephones.”).

<sup>15</sup> M. Anderson, *Digital Divide Persists Even as Lower-Income Americans Make Gains in Tech Adoption*, Pew Research Center, Mar. 22, 2017, <http://www.pewresearch.org/fact-tank/2017/03/22/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/>.

<sup>16</sup> *Id.*

nationally was approximately 3.9 GB per month.<sup>17</sup> Access to mobile data allows Lifeline users to send and receive email and otherwise access the internet. In fact, lower-income smartphone owners are especially likely to use their mobile device when seeking and applying for jobs.<sup>18</sup> By significantly increasing the data usage available to consumers in New York State, TracFone's proposed SafeLink offering helps low-income consumers get much closer to the national average mobile usage. Consistent with the purpose behind New York's expansion of its Lifeline program, enhanced SafeLink will "modernize the Lifeline program to help low-income consumers afford access to the internet and help close the digital divide."<sup>19</sup>

The need is acute in this state. According to the Governor's office, "Broadband adoption or use of broadband at home is a critical component of New York State's Broadband Strategy. More than six million New Yorkers, or 30 percent, don't use broadband at home due to issues such as affordability, lack of knowledge or perception of need. . . . In older adults, the technology gap is a product of a much wider problem of isolation and marginalization."<sup>20</sup> To address this problem, "New York State has been working with its

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<sup>17</sup> *In the Matter of Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, Twentieth Report*, FCC 17-126, 2017 WL 4348640, \*3 (F.C.C. Sept. 27, 2017).

<sup>18</sup> M. Anderson, *Digital Divide Persists Even as Lower-Income Americans Make Gains in Tech Adoption*, Pew Research Center, Mar. 22, 2017, <http://www.pewresearch.org/fact-tank/2017/03/22/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/>.

<sup>19</sup> 2017 N.Y. Senate Bill No. 5192, Committee Report (Mar. 14, 2017).

<sup>20</sup> Press Release, New York Governor's Office, Gov. Cuomo Announces \$9 Million Broadband Investment in the North Country (July 30, 2014) (available at <https://www.governor.ny.gov/news/governor-cuomo-announces-9-million-broadband-investment-north-country>).

broadband provider and adoption partners to increase broadband adoption rates among New Yorkers.”<sup>21</sup>

The Lifeline program serves the neediest households. Among the approximately 11 million households<sup>22</sup> in the U.S. receiving wireless Lifeline service, TracFone estimates (based on demographics of the households it serves) that 3 million (or 31%) are single mothers, 1.2 million (12%) are veterans, 1.4 million (14%) are elderly, and 3.9 million (40%) are minorities.

The federal Lifeline program was created to ensure that low-income Americans could make voice calls, including for educational, health, and employment purposes.<sup>23</sup> But today, the “Internet has become a prerequisite to full and meaningful participation in society.”<sup>24</sup> As our society becomes more digital-, wireless-, and broadband-based, programs that serve vulnerable populations must adjust. The biggest reason low-income households do not sign up for broadband is the cost.<sup>25</sup> This is why the FCC has set out a plan to transition Lifeline from a voice subsidy to an all-broadband subsidy.<sup>26</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> In accordance with the rules surrounding the federal Lifeline program, SafeLink serves eligible “households.” A household is defined as “any individual or group of individuals who live together at the same address and share income and expenses.” 47 C.F.R. § 54.410(d)(1)(iii).

<sup>23</sup> Federal Communications Commission, Universal Service, <https://www.fcc.gov/general/universal-service>; Federal Communications Commission, Lifeline Program for Low-Income Consumers, <https://www.fcc.gov/general/lifeline-program-low-income-consumers> (“Since 1985, the Lifeline program has provided a discount on phone service for qualifying low-income consumers to ensure that all Americans have the opportunities and security that phone service brings, including being able to connect to jobs, family and emergency service.”).

<sup>24</sup> *In the Matter of Lifeline and Link Up Reform and Modernization*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd. 7048, ¶ 1 (2016).

<sup>25</sup> *Id.* ¶ 2.

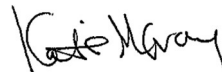
<sup>26</sup> *Id.* ¶ 6.

Given this combination of factors, TracFone's proposal gives New Yorkers an opportunity to participate more fully in this new technological environment without an added cost burden, which is what the Legislature intended.

## VI. CONCLUSION

The Commission's approval of this Petition will enable TracFone to enhance significantly SafeLink service to eligible recipients in New York State to meet current and growing technological need. For the reasons detailed above, TracFone respectfully requests that the Commission promptly grant this request for TracFone to participate in the state Lifeline program and to receive funds of \$11.00 per household per month from the Targeted Accessibility Fund.

Respectfully submitted on February 13, 2018.



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## VERIFICATION

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Javier Rosado, state that I am Senior Officer Business Development and Government Services of TracFone Wireless, Inc. ("TracFone"); that I am authorized to make this Verification on behalf of TracFone; that the foregoing filing was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.

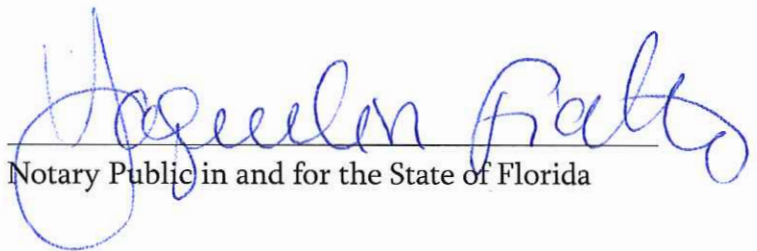


Signature



Typed or Printed Name

SWORN TO AND SUBSCRIBED before me on the 6th day of February, 2018.



Notary Public in and for the State of Florida

My commission expires: \_\_\_\_\_

