

The Commission met on **Thursday, April 22, 2010**, with Chair Boyd and Commissioners O'Brien, Pugh, Reha, and Wergin present.

The following matters were taken up by the Commission:

TELECOMMUNICATIONS AGENDA

P-6823/M-09-802

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

Commissioner O'Brien moved to take the actions set forth below:

1. Find that TracFone meets the basic ETC requirement about use of its own facilities, subject to the condition that TracFone document that its provision of service in Minnesota is in compliance with all the following FCC conditions:

a) Providing its Lifeline customers with access to E911 service, regardless of activation status and availability of prepaid minutes.

b) Providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, non-compliant handsets of existing customers who obtain Lifeline-supported service.

c) Complying with a) and b) as of the date it provides Lifeline service.

d) Obtaining a certification from each Public Safety Answering Point (PSAP) where TracFone provides Lifeline service confirming that TracFone complies with condition a). The Company may self-certify that it meets the basic and E911 requirements if the PSAP has not provided the certification and made affirmative findings within 90 days of TracFone's request.

e) Requiring its customers to self-certify at the time of service activation and annually thereafter that they are the head of household and are receiving Lifeline-supported service only from TracFone.

f) Establishing safeguards to prevent customers from receiving multiple TracFone Lifeline subsidies at the same address.

2. Find that TracFone meets the basic ETC requirement on provision of service throughout its proposed service area, subject to the condition that TracFone document its service area and coverage within the service area in a manner consistent with Minnesota rules.

3. Find that TracFone meets the basic ETC requirement regarding a formal plan for advertising the offering and availability of Lifeline, subject to TracFone's compliance as recommended by the Department of Commerce, that TracFone submit a plan listing the local and community newspapers, and commercial broadcast stations in Minnesota through which it intends to

advertise the availability of Lifeline and a proposed schedule or anticipated frequency of such advertising. In addition, as the Department recommended, require TracFone to post the availability of Lifeline service on its website and to submit an advertising plan for approval by the Department of Commerce.

4. Find that TracFone meets the basic ETC requirement regarding the filing of an informational tariff, or customer service agreement that shows the rates, service plans, cost of related equipment and installation charges, and all terms and conditions related to the universal service offering, subject to the requirement that TracFone revise its informational tariff and/or customer service agreement to address the concerns raised by the Department of Commerce as follows:

- a) Revise policies regarding disconnection, de-enrollment, deactivation of handsets, and flagging of customers' personal information to thwart future Lifeline eligibility to comply with Minn. Rules 7810.1800 – 7810.2000, which allow disconnection only under certain defined circumstances and provide for appropriate notice to customers.
- b) Include commitments to comply with the Commission's consumer protection and service quality standards codified in Minn. Rules Chapter 7810, including those relating to record keeping and reporting billing practices and complaint handling procedures.
- c) Clearly list and explain the pricing for the Lifeline offering.
- d) 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.
- e) Provide clear notice that this Commission is available for assistance in resolving customer questions, concerns, comments, and complaints; provide contact information for the Commission; and eliminate the provision in the Terms and Conditions requiring binding arbitration.

5. Find that TracFone, except for those requirements specifically and separately discussed, meets the other threshold requirements for ETC designation.

6. Approve a one-year ETC designation as conditioned in this docket as in the public interest and allow TracFone to re-file for ETC designation 60 days before the end of the one-year period. Require TracFone to make a compliance filing within 30 days of the date of the order addressing the conditions attached to its ETC designation by the Commission.

7 (a). Condition TracFone's ETC designation on its compliance with Minn. Stat. §§403.11 and 237.52; require TracFone to assess and remit E911 and TAM contributions based on a surcharge per customer. Request the Department and the Department of Public Safety to monitor future compliance by TracFone. In addition, open an investigation into whether TracFone was in violation of Minnesota laws.

7 (b). Condition TracFone's ETC designation on its provision of an annual 60-day inactivity report; require TracFone to provide an annual report on the customers whose service is cancelled due to 60 days of non-usage and to submit evidence that TracFone does not collect Universal Service Fund subsidies for those inactive phones.

7 (c). Condition TracFone's ETC designation on an increase in the number of free minutes to equal at least the maximum number of free minutes the Company offers in any other state.

7 (d). Condition TracFone's ETC designation on its not subtracting from the free-minutes allowance customer calls to its customer service center, providing those calls use the 611-customer-service number and that calls about handset issues must be made from another line.

7 (e). Condition TracFone's ETC designation on a requirement that additional minutes above the free allowance be available at the ten-cent per-minute rate the Company has proposed in other states.

7 (f). Condition TracFone's ETC designation on a requirement that it assign its Lifeline customers only numbers that are local to their billing address, with "local" meaning that the TracFone customer will be assigned a number assigned to the free calling area for the local telephone exchange where the customer's billing address is located.

7 (g). Condition TracFone's ETC designation on a requirement that the Company comply with the same annual Lifeline verification procedures that apply to other Minnesota ETCs.

7 (h). Condition TracFone's ETC designation on a requirement that it report any changes to its Lifeline service and update its informational tariff or customer service agreement to reflect those changes.

8. Approve TracFone's petition for ETC designation for the limited purpose of offering Lifeline service to qualified Minnesota households, subject to the Company making a compliance filing within 30 days of the date of the order satisfying the conditions adopted by the Commission in this docket.

The motion passed 5-0.

ENERGY AGENDA

G-022/M-07-1398

G-022/M-08-1327

G-022/M-09-1340

In the Matter of the Petition of Greater Minnesota Gas, Inc. for Approval of Changes to Contract Demand Entitlements to Serve the Company's Firm Customers

Commissioner Pugh moved to take the actions set forth below:

1. Accept the Company's filing in docket 07-1398 as complying with Minn. Rule 7825.2910, subp. 2 and approve the PGA recovery of the costs associated with the demand entitlement changes effective November 1, 2007.

2. Accept the Company's explanation that it does not currently incur producer demand or storage costs and find it in compliance with the requirement of the February 2008 order in Docket E,G-999/AA-06-1208 that natural gas utilities explain their inter-class allocations of these costs.

3. Accept the Company's filing in docket 08-1327 as complying with Minn. Rule 7825.2910, subp. 2 and approve the PGA recovery of the costs associated with the demand entitlement changes effective November 1, 2008.
4. Require the Company to make a miscellaneous tariff filing or file rate case testimony addressing the January 29, 2008 entitlement deficit and to propose a tariff modification to prevent similar situations in the future.
5. Accept the Company's filing in docket 09-1340 as complying with Minn. Rule 7825.2910, subp. 2 and approve the PGA recovery of the costs associated with the demand entitlement changes effective November 1, 2009.
6. Require the Company to consult with the OES and with Commission staff about its design-day calculations at least 30 days prior to making its annual demand entitlement filing for 2010-2011.
7. Require the Company to return or refund the entire over-collection of costs for the 300-Mcf of TFX-3 service, plus one percent interest, by adding a credit to the firm true-up rate to return the entire amount of the overcharge to ratepayers by the end of August 2010 and require the Company to implement the true-up credit and issue refund checks if appropriate within 30 days of the Commission's order.
8. Require the Company to make a compliance filing within 30 days of the order that addresses who has contracted for the 2000 Dkt/day capacity from U.S. Energy Services, how it would be available to the Company, whether it could be counted on to be available on a peak day when overall system demand is very high as well as any other information that would be useful in understanding these entitlements.

The motion passed 5-0.

E-002/M-09-768

In the Matter of the Application of Northern States Power Company to Address a City-Requested Facilities Surcharge Collection Overage

Commissioner Pugh moved to take the actions set forth below:

1. Direct Xcel to refund the \$10,552.34 overage to ratepayers in the City of Bloomington, within 90 days from the date of the order and to file a refund report within 30 days of the completion of the refund process.
2. Require Xcel to make a filing modifying or supplementing its City-Requested Facilities Surcharge tariff within 90 days of the date of the order. The modification or supplement shall specify how to account for over-collections, including how interest will be calculated.

The motion passed 5-0.

E-015/M-09-1422

In the Matter of a Petition for Approval of a Franchise Fee Rider for Minnesota Power's Retail Electric Customers in the City of Staples

Commissioner Reha moved the following:

1. Minnesota Power's Rider for City of Staples Franchise Fee shall read as follows:

There shall be added to each customer's monthly electric service bill a City of Staples Franchise Fee assessment. The amount of the fee to be assessed shall be the assessment rate equal to that imposed on Minnesota Power by the City of Staples, which is currently 5% of the total bill excluding sales taxes. The fee is listed on the bill as "Staples Franchise Fee (5%)" and is effective as of March 11, 2010.

2. The Commission delegates to the Executive Secretary the authority to approve the customer notice in this matter.
3. The Commission denies Minnesota Power's variance request. Minnesota Power shall not charge a franchise fee to its City of Staples ratepayers any earlier than March 11, 2010.
4. Within 10 days of the date of this Order, Minnesota Power shall file revised tariff sheets reflecting the Commission's determinations in this matter.

The motion passed 5-0.

E-999/CI-09-1449

In the Matter of an Investigation into Whether the Commission Should Take Action on Demand Response Bid Directly into the MISO Markets by Aggregators of Retail Customers under FERC Orders 719 and 719-A

The Commission laid the matter over to a later date to be determined by the Executive Secretary.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION: JULY 14, 2010



Burl W. Haar, Executive Secretary