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Chas. F. McDevitt
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IDAHO PUBLIC
UTILITIES COMMISSION

March 29, 2011

Via Hand Delivery

Jean Jewell, Secretary
Idaho Public Utilities Commission
472 W. Washington St.
Boise, Idaho 83720

Re: In the Matter of The Application of TracFone Wireless
TFW-T-09-01

Dear Ms. Jewell:

Also enclosed for filing, please find seven (7) copies of TracFone Wireless Inc's Response to Joint Motions to Compel, or in the Alternative, Motion *in Limine* of the Idaho Telecom Alliance and CTC Telecom, Inc. dba CTC Wireless.

Kindly return a file stamped copy to me.

Very Truly Yours,

McDevitt & Miller LLP

Dean J. Miller

DJM/hh
Encl.

ORIGINAL

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Debra McGuire Mercer
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Attorneys for TracFone Wireless, Inc.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF TRACFONE WIRELESS, INC. FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER.	)	**CASE NO. TFW-T-09-01** **TRACFONE WIRELESS, INC.'S RESPONSE TO JOINT MOTIONS TO COMPEL, OR IN THE ALTERNATIVE, MOTIONS *IN LIMINE* OF THE IDAHO TELECOM ALLIANCE AND CTC TELECOM, INC. DBA CTC WIRELESS**

Pursuant to IDAPA 31.01.01.256.02 and 31.01.01.256.04, TracFone Wireless, Inc. ("TracFone") files the following Response to two Joint Motions to Compel, or in the alternative, Motions *in Limine*, of the Idaho Telecom Alliance and CTC Telecom, Inc. dba CTC Wireless

(collectively, ITA and CTC) filed on March 24 and 25, 2011. The two Motions should be denied because they fail to comply with this Commission's rules, were made for the purpose of delay, and seek information that is irrelevant to the subject matter of this proceeding. As such, the Commission should deny the Motions. However, as explained in this Response, TracFone will respond, to the extent it has responsive materials in its possession, to one of the data requests that is the subject of one of the Motions to Compel, even though the request seeks irrelevant information and was served more than nine months after ITA and CTC had a basis for asking for the information.

INTRODUCTION

On February 18, 2011, ITA and CTC served the First Joint Production Request on TracFone. In accordance with the Commission's rules, TracFone timely filed objections to some of the production requests on March 4, 2011. The majority of the production requests to which TracFone objected relate to TracFone's financial data, which has no bearing on the merits of the TracFone Application. On March 11, 2011, TracFone timely filed responses to the First Joint Production Requests for which it did not file an objection or for which it did file an objection but stated that it would nevertheless provide a response (without waiving its objection). ITC and CTC, although aware of TracFone's objections on March 4, 2011, waited until 4:52 p.m. the evening of March 25, 2011—21 days after TracFone had timely filed its objections, and only 4 business days before the scheduled hearing on this matter—to file a Motion to Compel (hereinafter, "First Production Request Motion to Compel"). ITA and CTC offer no reasons for waiting three weeks to file their Motion. Having waited more than three weeks to file their motion to compel, ITA and CTC have the temerity to request that TracFone fully answer the First Joint Production Requests one business day later, i.e., by 5:00 p.m., March 28, 2011. In

the alternative, ITA and CTC request that the Commission strike any reference regarding the free nature and/or economic benefits of TracFone's proposed service offering from the record and not to consider any such claims in its deliberations. In other words, ITA and CTC ask that the Commission evaluate whether or not TracFone's proposed Lifeline service would serve the public interest while disregarding some of the factors which make the proposed offering so invaluable to Idaho's low-income households and why the proposal would serve the public interest.

On March 9, 2011, ITA and CTC served the Second Joint Production Request on TracFone. This production request seeks information regarding TracFone's communications with Governor C.L. "Butch" Otter and Idaho Representative Wendy Jaquet that may have preceded letters from Governor Otter or Representative Jaquet that are contained in the Secretary's Official File (RP 282) and which support approval of the TracFone's Application. In accordance with the Commission's rules, TracFone timely filed an objection to the production request on March 23, 2011. ITC and CTC filed a Motion to Compel (hereinafter, "Second Production Request Motion to Compel") on March 24, 2011. In the Motion to Compel, ITA and CTC ask TracFone to fully answer the Second Joint Production Requests by 5:00 p.m., March 28, 2011. In the alternative, ITA and CTC request the Commission to strike letters from Governor Otter and Representative Jaquet from the record and to not consider those letters in its deliberations.

In both the First Production Request Motion to Compel and the Second Production Request Motion to Compel, ITA and CTC request expeditious relief from the Commission pursuant to IDAPA 31.01.01.256. However, as discussed below, ITA and CTC failed to comply with the essential procedural requirements for seeking expeditious relief and for submission of

motions to compel. In addition, the timing and procedural deficiencies of the motions demonstrate that ITA and CTC's intent is to harass TracFone and cause unnecessary delay in this proceeding. Moreover, ITA and CTC fail to demonstrate that the information requested it relevant to the subject matter of this proceeding.

ARGUMENT

I. Neither the First Production Request Motion to Compel nor the Second Production Request Motion to Compel Complied with the Commission's Rules Governing Motions to Compel or Requests for Expeditious Relief.

The Commission's rules provide: "Unless otherwise provided by these rules, order, or notice, the scope and procedure of discovery, other than statutory examination and audit, is governed by the Idaho Rules of Civil Procedure." IDAPA 31.01.01.221.05. In both motions, ITA and CTC assert that discovery matters before the Commission are governed by the Idaho Rules of Civil Procedure ("IRCP").[1] TracFone does not dispute that assertion. ITA and CTC, while relying on the IRCP to assert that they are entitled to obtain certain information from TracFone, proceed to disregard the part of the IRCP that govern motions to compel. IRCP 37(a)(2) provides: "The motion [to compel] <u>must</u> include a certification that the movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without [Commission] action." (emphasis added) During the three weeks between the date that TracFone filed its objections to the First Joint Production Request (March 4, 2011) and the date that ITA and CTC filed their First Production Request Motion to Compel (March 25, 2011), counsel for TracFone did not receive any communication from counsel for ITA or from counsel for CTC attempting to confer with respect to TracFone's

[1] First Production Request Motion to Compel, at 2; Second Production Request Motion to Compel, at 2.

objections.[2] Counsel for TracFone also did not receive any communication from counsel for ITA or from counsel for CTC attempting to confer with TracFone prior to filing the Second Production Request Motion to Compel.[3]

The purpose of the "meet and confer" obligation is obvious—the Commission's valuable time should not be taken up on discovery disputes until it can be demonstrated that good faith efforts between the parties to resolve such disputes have failed. ITA and CTC undertook no efforts to resolve discovery issues prior to filing the motions to compel as required by IRCP. As such, the Commission should deny the motions.

In addition, both motions to compel fail to comply with the Commission's rule governing requests for expedited relief. IDAPA 31.01.01.256.02 provides that a motion requesting relief on fewer than fourteen (14) days' notice:

> will not be acted upon on fewer than fourteen (14) days' notice unless it states:
>
> a. The facts supporting its request to act on shorter notice; and
>
> b. 1) That at least one representative of all parties has received actual notice of the motion, by telephone or personal delivery of the motion; or 2) stating the efforts made to reach representatives of those parties not contacted and what efforts will continue to be made to contact them.

Neither motion stated any facts supporting the request to act on shorter notice. Furthermore, neither motion stated that a representative of TracFone had received actual notice of the motion by telephone or personal delivery of the motion nor that any efforts were made to reach a representative of TracFone. Indeed, counsel for TracFone did not receive any such notice.[4] The motions to compel are procedurally deficient and should be denied. Despite the procedural

---

[2] See Affidavits of Dean J. Miller and Mitchell F. Brecher, attached as Exhibit 1.

[3] Id.

[4] Id.

shortcomings of the motions, TracFone will, to the extent it has responsive materials in its possession, provide a response to the request at issue in the Second Production Request Motion to Compel.

II. The Motions to Compel, Which Were Filed for the Purpose of Delay, Do Not Justify Any Delay in the Hearing Scheduled in this Proceeding.

While the motivations that lead an opposing party to file motions in a proceeding are not susceptible to direct proof, it is possible, and proper, to look at observable facts and draw inferences from observed facts. In this proceeding the observable facts are the following: On May 28, 2010, the Commission granted the petitions to intervene of ITA and CTC. Since that time, ITA and CTC have had ample opportunity to seek discovery from TracFone. Indeed, both ITA and CTC asked to intervene in this proceeding so that they could "propound appropriate discovery."[5] However, ITA and CTC waited until February 18, 2011, almost nine months after becoming parties to this proceeding, to propound their first set of production requests, and waited nearly one additional month—until March 9, 2011—to seek TracFone's communications with Governor Otter and Representative Jaquet. Indeed, letters from Governor Otter and Representative Jaquet were filed with this Commission on April 19, 2010 and May 18, 2010, respectively—more than ten months before ITA and CTC's attempt to discover information concerning those letters. Therefore, ITA and CTC's last minute request for TracFone's communications with these individuals can only be an attempt to delay this proceeding. Furthermore, regarding the First Joint Production Request, TracFone timely filed objections on March 4, 2011, but ITC and CTC waited until the evening of March 25, 2011—21 days later and 4 business days before the hearing on this matter—to file the First Production Request Motion to

[5] ITA Petition to Intervene, May 14, 2010, at 3; CTC Petition to Intervene, May 14, 2010, at 3.

Compel. During those three weeks, neither ITA nor CTC contacted or even attempted to contact TracFone to advise it that there was any disagreement with TracFone's objections. There is no excuse for waiting three weeks to file the Motion to Compel, in particular knowing that the hearing in this proceeding is scheduled for March 31, 2011. Moreover, there is no excuse for failing to comply with the Commission's rules governing motions to compel and requests for expedited relief as explained in Section I of this Response.

Based on these observed facts, a permissible, and perhaps unavoidable, inference is that both the First Production Request Motion to Compel and the Second Production Request Motion to Compel were filed for the purpose of delay. Indeed, counsel for ITA and counsel for CTC previously have attempted to delay the hearing.[6] ITA and CTC should not be allowed to benefit from their failure to comply with established Commission procedural requirements and from an apparent pattern of delay in conducting discovery in this proceeding. TracFone requests the Commission to deny the motions to compel and strongly urges the Commission to proceed with the Technical Hearing set for March 31, 2011, as scheduled.

III. The Motions to Compel Seek Information That is Neither Relevant nor Reasonably Calculated to Lead to Admissible Evidence Related to the Subject Matter of This Proceeding.

ITA and CTC assert that the scope of discovery is broad. However, as stated by ITA and CTC in its motions and as IRCP 26(b)(2) provides: "[p]arties may obtain discovery regarding any matter which is relevant to the subject matter involved in the pending action." (emphasis added). Thus, discovery is not an unlimited exploration into any and all factual information

[6] See E-mail from M. O'Leary, counsel for CTC, February 15, 2011, stated that CTC would not serve discovery until February 18, 2011 at the earliest and noting that "the hearing date will need to accommodate that reality"; e-mail from C. Melillo, counsel for ITA, February 15, 2011, stating that she had "tentative travel plans the week of March 28" as a basis for March 31, 2011 not being a convenient date for the hearing. Copies of these e-mails are provided as Exhibit 2.

about which ITA and CTC may have a desire to obtain. Rather, discovery must regard issues that are relevant to the subject matter of the proceeding. The subject matter of this proceeding is whether TracFone meets the legal requirements for being designated as an Eligible Telecommunications Carrier ("ETC"). The production requests to which TracFone objects do not seek information relevant to whether TracFone meets those legal requirements. At a minimum, discovery requests must be reasonably calculated to lead to admissible evidence. Neither of the Motions to Compel meet this minimum threshold, as discussed below.

The First Production Request Motion to Compel is a generalized request for responses to the First Joint Production Request. ITA and CTC assert that the First Joint Production Requests "asked TracFone to provide various financial data regarding its SafeLink Lifeline offering that is the subject of its ETC Application and its economic characterization of that service, including its so-called 'free' handset."[7] However, ITA and CTC do not identify any specific data request for which they need a response.

ITA and CTC appear to dispute whether the handsets TracFone provides to its Lifeline subscribers are actually free. As TracFone has explained in its Amended ETC Application and in its testimony, TracFone provides its Lifeline customers with a free E911-compliant handset at its own expense. Providing free handsets to Lifeline customers is a business decision; it is not a Lifeline requirement. No portion of the handset cost is supported by the Federal Universal Service Fund, by any state fund or by ratepayers of any Idaho intrastate telecommunications service. Given the undisputed fact that TracFone provides its Lifeline customers with handsets at its own expense, the cost of those handsets to TracFone would have no bearing on TracFone's

[7] First Production Request Motion to Compel, at 1.

use of Universal Service Fund resources and no relevancy to its qualifications to be designated as an ETC under the applicable ETC designation criteria established by the Federal Communications Commission ("FCC") and by this Commission.

Furthermore, ITA and CTC have failed to identify how each of the production requests to which TracFone has objected are relevant to whether TracFone should be designated as an ETC. Indeed, they point to no legal requirement for ETC designation that concerns financial data or the costs incurred by a potential ETC. The only specific issue ITA and CTC raise is the fact that TracFone filed a letter with the FCC on February 24, 2011, which it asserts to contain "much of the same information requested of [TracFone] by the Intervenors."[8] ITA and CTC have not specifically requested an unredacted copy of the February 24, 2011 letter (which was not provided to the FCC to determine whether TracFone meets any legal requirements to be designated as an ETC) nor have they identified any production request that seeks the same information as that disclosed in the letter to the FCC. For the foregoing reasons, the Commission should deny the First Production Request Motion to Compel.

ITA and CTC's alternative request that TracFone not be allowed to refer to the free nature of its service is baseless and should be denied. TracFone's Lifeline service is offered to all of its customers at no cost. There is no charge for the number of airtime minutes chosen by the Lifeline customer, no additional charges for any calling features, such as voicemail and caller ID, and no roaming charges. TracFone also provides a free handset to its Lifeline customers.

---

[8] Id. at 3. In that ex parte letter, TracFone provided information to the FCC on a confidential basis the break even point for TracFone's Lifeline service (i.e., how many months customers must remain enrolled in the Lifeline program for TracFone to break even on its investment in each customer, and information regarding Lifeline customers' average monthly usage. Because that information was provided to the FCC on a confidential basis, no competing ETC will have access to that information. Moreover, the information provided to the FCC was not requested by ITA and CTC.

There are simply no hidden charges for TracFone's Lifeline service. ITA and CTC's request that TracFone not be allowed to refer to the terms of its Lifeline service is highly prejudicial and would deny the Commission the ability to fairly evaluate TracFone's proposed Lifeline service based upon all available information relevant to that service.

Finally, ITA and CTC's Second Production Request Motion to Compel, which asks the Commission to order TracFone to provide its communications with Governor Otter and Representative Jaquet, should be denied. There is no prohibition on an ETC applicant discussing its pending application with the Governor or any state representative nor is there a prohibition on attempting to gain to support of such individuals. The letters filed with the Commission provide the Governor Otter's and Representative Jaquet's thoughts on TracFone's Lifeline service. In Idaho as in all states, citizens have right to petition their government and to correspond with their elected officials. TracFone exercised that right. As a quasi-legislative body, the Commission has the right to consider the views of public officials, giving those views the weight the Commission considers appropriate, in its discretion. Details concerning TracFone's permissible communications with Governor Otter and with Representative Jacquet are not relevant to any issue before the Commission regarding TracFone qualifications to be designated as an ETC. Notwithstanding the incontrovertible fact that this request is far outside the scope of permissible discovery, TracFone will, to the extent it has responsive materials in its possession, provide such information in its possession that is responsive to this request.

CONCLUSION

Based of the foregoing, TracFone respectfully request this Commission to deny the Motions to Compel and to proceed with the Technical Hearing as scheduled on March 31, 2011.

Respectfully Submitted, this 28 day of March, 2011.

Dean J. Miller (ISB No. 1968)
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mercerdm@gtlaw.com

Attorneys for TracFone Wireless, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of March, 2011, I caused to be served, via the method(s) indicated below, true and correct copies of the foregoing document, upon:

Jean Jewell, Secretary Idaho Public Utilities Commission 472 West Washington Street P.O. Box 83720 Boise, ID 83720-0074 jjewell@puc.state.id.us	Hand Delivered U.S. Mail Fax Fed. Express Email	✓ ف ف ف ف
Neil Price, Esq. Idaho Public Utilities Commission 472 West Washington Street P.O. Box 83720 Boise, ID 83720-0074 Neil.Price@puc.idaho.gov	Hand Delivered U.S. Mail Fax Fed. Express Email	ف ف ف ف ✓
Molly O'Leary, Esq. Richardson & O'Leary, PLLC P.O. Box 7218 Boise, ID 83707 molly@richardsonandoleary.com	Hand Delivered U.S. Mail Fax Fed. Express Email	ف ف ف ف ✓
Cynthia A. Melillo, Esq. Givens Pursley LLP 601 N. Bannock Street P.O. Box 2720 Boise, ID 83701 cam@givenspursley.com	Hand Delivered U.S. Mail Fax Fed. Express Email	ف ف ف ف ✓

BY: Heather Houle
McDEVITT & MILLER LLP

Exhibit 1

Dean J. Miller (ISB No. 1968)
McDEVITT & MILLER LLP
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Attorneys for TracFone Wireless, Inc.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF TRACFONE WIRELESS, INC. FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER.	)	**CASE NO. TFW-T-09-01** **AFFIDAVIT OF DEAN J. MILLER**

STATE OF IDAHO)
: ss
County of Ada)

Dean J. Miller, being first duly sworn upon an oath deposes and says:

1. I am one of the attorneys of record for the Applicant herein, TracFone Wireless, Inc (TracFone).

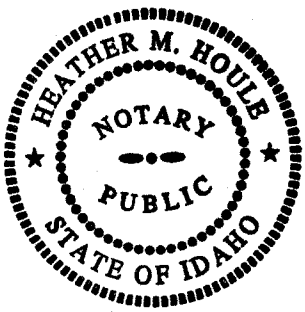
2. Between March 4, 2011, the date on which TracFone filed objections to Intervenor's First Production Request, and March 25, 2011, the date on which ITA and CTC filed their first Motion to Compel Discovery, I did not receive any communication, either in writing or orally, from counsel for ITA and CTC to meet and confer regarding TracFone's objections to the Intervenor's First Production Request. Likewise, I did not receive from counsel for ITA and CTC and request to confer regarding Intervenors second Motion to Compel Discovery.

DATED this 29 day of March, 2011.

Dean J. Miller
Attorney for TracFone Wireless, Inc.

STATE OF IDAHO)
) ss
County of Ada)

SUBSCRIBED AND SWORN before me this 29th day of September, 2010



Name: Heather Houle
Notary Public for Idaho
Residing at Boise
My commission expires 6/20/12

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Attorneys for TracFone Wireless, Inc.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF TRACFONE WIRELESS, INC. FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER.	)))))	**CASE NO. TFW-T-09-01** **AFFIDAVIT OF MITCHELL F. BRECHER**

AFFIDAVIT OF MITCHELL F. BRECHER

Mitchell F. Brecher, after first being sworn on oath, states as follows:

1. I am outside counsel for TracFone Wireless, Inc. ("TracFone"). My business address is Greenberg Traurig, L.L.P., 2101 L Street, NW, Suite 1000, Washington, D.C. 20037. This Affidavit is being provided in support of TracFone's Response to Joint Motions to Compel, or in the Alternative, Motions *In Limine* of the Idaho Telecom Alliance and CTC Telecom, Inc. dba CTC Wireless, filed in Case No. TFW-T-09-01.

2. On February 18, 2011, Idaho Telecom Alliance ("ITA") and CTC Wireless ("CTC") served a First Joint Production Request on TracFone. In accordance with the Commission's rules, TracFone timely filed objections to some of the production requests on March 4, 2011. On March 11, 2011, TracFone timely filed responses to the First Joint Production Requests. ITC and CTC filed a motion to compel responses to the First Joint Production Request on March 25, 2011. ITC and CTC sought expedited relief in the motion to compel.

3. During the time between the date that TracFone filed its objections to the First Joint Production Request (March 4, 2011) and the date that ITA and CTC filed their motion to compel responses to the First Joint Production Request (March 25, 2011), I did not receive any communication from counsel for ITA or from counsel for CTC attempting to confer with TracFone prior to filing the motion to compel. I also did not receive actual notice of the motion to compel by telephone or personal delivery.

4. On March 9, 2011, ITA and CTC served Second Joint Production Request on TracFone. In accordance with the Commission's rules, TracFone timely filed an objection to the production request on March 23, 2011. ITA and CTC filed a motion to compel responses on March 24, 2011. ITA and CTC sought expedited relief in the motion to compel.

5. I did not receive any communication from counsel for ITA or from counsel for CTC attempting to confer with TracFone prior to filing the motion to compel responses to the Second Joint Production Request. I also did not receive actual notice of the motion to compel by telephone or personal delivery.

I hereby certify that, to the best of my knowledge, the foregoing is true and accurate.

Mitchell F. Brecher

3/28/11
Date

Sworn to and subscribed before me this 28th day of March, 2011.

Notary Public

GAYNELL FAY GUNN
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires December 14, 2013

Exhibit 2

From: Neil Price [mailto:Neil.Price@puc.idaho.gov]
Sent: Tuesday, February 15, 2011 6:25 PM
To: Cynthia A Melillo; Brecher, Mitchell (Shld-DC-TelCom); Joe Miller; Molly O'leary
Cc: Joe Cusick; Grace Seaman
Subject: RE: New Proposed Schedule [IWOV-GPDMS.FID485913]

By tentative I assume you mean that are indefinite and/or they can be rescheduled? March 31 is literally one of the last options the Commisioners have for quite a while without reshuffling other matters.

Neil

From: Cynthia A Melillo [mailto:cam@givenspursley.com]
Sent: Tuesday, February 15, 2011 4:20 PM
To: Neil Price; BRECHERM@gtlaw.com; Joe Miller; Molly O'leary
Cc: Joe Cusick; Grace Seaman
Subject: RE: New Proposed Schedule [IWOV-GPDMS.FID485913]

Neil,

Unfortunately, I have tentative travel plans the week of March 28.

Cynthia A. Melillo

Givens Pursley, LLP
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From: Neil Price [mailto:Neil.Price@puc.idaho.gov]
Sent: Tuesday, February 15, 2011 4:16 PM
To: BRECHERM@gtlaw.com; Joe Miller; Cynthia A Melillo; Molly O'leary
Cc: Joe Cusick; Grace Seaman
Subject: New Proposed Schedule

Parties,

After consulting with the parties regarding the previously proposed schedule, there was some concern regarding the need for adequate time for the submission and answering of discovery requests prior to the preparation of testimony. I believe that the confidentiality agreement circulated by TracFone has alleviated some of those concerns. Shortly, the intervenors will receive copies of the additional data/information not currently posted on the Commission's public page.

I have prepared a Notice of Hearing that essentially moves all of the dates in the previous schedule back 7-14 days. TracFone will file Direct Testimony no later than Feb. 25, 2011; Staff/Intervenors March 16, 2011; TracFone Rebuttal March 23, 2011. The hearing date will be March 31, 2011. That is the best I can do and still accommodate the Commissioners busy schedule and keep this case moving in a forward trajectory. That said, the Commission has routinely allowed witnesses, upon taking the stand and presenting their testimony for admission into the record, to both correct and supplement their pre-filed testimony (prior to cross-examination) based upon subsequent information. Obviously, any supplemental testimony is subject to cross-examination and/or an objection if any party seeks to abuse this privilege with duplicative or extraneous testimony.

Notwithstanding an actual time conflict (travel, previously scheduled court hearing, etc.), I think we need to get the schedule out and make sure that discovery is completed in a cooperative and expeditious manner.

Regards,

Neil

D. Neil Price

Deputy Attorney General

Idaho Public Utilities Commission

P.O. Box 83720

Boise, Idaho 83720-0074

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From: Molly O'leary [mailto:molly@richardsonandoleary.com]
Sent: Tuesday, February 15, 2011 6:15 PM
To: Joe Miller; Neil Price; Cynthia A Melillo; Brecher, Mitchell (Shld-DC-TelCom)
Subject: RE: TracFone [IWOV-GPDMS.FID485913]

As we previously indicated, we intend to complete discovery before we file our direct testimony. This was communicated to Neil the day of the January 24th Commission Decision Meeting, before a proposed hearing date was sought.

We anticipate getting our discovery out this Friday or Monday. Assuming TracFone responds, in full, within the required 3-week timeframe (3/11 or 3/14), we should be able to file our direct testimony by 3/18 or 3/21.

The hearing date will need to accommodate that reality.

Best Regards,

Molly O'Leary
Richardson & O'Leary PLLC
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Boise, Idaho
Voice: 208.938.7900
Facsimile: 208.938.7904

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Thank you!

From: Joe Miller [mailto:joe@mcdevitt-miller.com]
Sent: Tuesday, February 15, 2011 4:01 PM
To: Neil Price; Cynthia A Melillo; Molly O'leary; BRECHERM@gtlaw.com
Cc: Brenda Sorrell
Subject: Re: TracFone [IWOV-GPDMS.FID485913]

Thanks, Neil.
As you recall, TracFone was amenable to the schedule originally proposed. Any slippage in the hearing date would be frustrating.

Joe

----- Original Message -----
From: Neil Price
To: Cynthia A Melillo ; Joe Miller ; Molly O'leary ; BRECHERM@gtlaw.com
Cc: Brenda Sorrell
Sent: Tuesday, February 15, 2011 3:52 PM
Subject: RE: TracFone [IWOV-GPDMS.FID485913]

We are making copies and sending them to the intervenors as I type. FYI- still waiting for confirmation from the Commissioner's Asst. on whether we can move the hearing date back. I'll have an email out to the parties detailing the schedule as soon as I get word.

Neil

From: Cynthia A Melillo [mailto:cam@givenspursley.com]
Sent: Tuesday, February 15, 2011 3:39 PM
To: 'Joe Miller'; Neil Price; Molly O'leary; BRECHERM@gtlaw.com
Cc: Brenda Sorrell
Subject: RE: TracFone [IWOV-GPDMS.FID485913]

Brenda,

I would like the information previously submitted by TracFone to the Staff. Thank you.

Cindy

Cynthia A. Melillo

Givens Pursley, LLP
601 W. Bannock Street
Boise, ID 83702
208-388-1273 (office)
208-412-4686 (cell)
208-388-1300 fax
cam@givenspursley.com

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From: Joe Miller [mailto:joe@mcdevitt-miller.com]
Sent: Tuesday, February 15, 2011 3:34 PM
To: Neil Price; Molly O'leary; Cynthia A Melillo; BRECHERM@gtlaw.com
Cc: Brenda Sorrell
Subject: Fw: TracFone

All--

For your files here is the fully executed agreement.

Brenda-

If the intervenors desire access to information previously submitted by TracFone to the Staff, we have no objection.

Thanks to all for getting this wrapped up.

Joe

----- Original Message -----
From: heather
To: joe@mcdevitt-miller.com
Sent: Tuesday, February 15, 2011 3:26 PM
Subject: TracFone

Heather Houle-Legal Assistant

McDevitt & Miller LLP
420 West Bannock
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