

RICHARDSON & O'LEARY, PLLC
ATTORNEYS AT LAW

Molly O'Leary

Tel: 208-938-7900 Fax: 208-938-7904
molly@richardsonandoleary.com
P.O. Box 7218 Boise, ID 83707 - 515 N. 27th St. Boise, ID 83702

14 April 2011

RECEIVED

2011 APR 14 PM 4:18

IDAHO PUBLIC
UTILITIES COMMISSION

Ms. Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
P O Box 83720
Boise ID 83720-0074

Hand Delivered

RE: CASE NO. TFW-T-09-01
INTERVENORS' JOINT RESPONSE TO TRACFONE'S 04.08.11 LETTER
REQUESTING POST-HEARING BRIEFS

Dear Ms. Jewell:

This letter is submitted to the Idaho Public Utilities Commission as a Joint Response from the Idaho Telecom Alliance and CTC Telecom, Inc. ("Intervenors"), to TracFone's letter dated April 8, 2011, requesting permission for the parties to file post-hearing briefs.

As you know, the opportunity to file post-hearing briefs in a matter before the Commission is one of permission, not of right. IDAPA 31.01.01.255. Thus, the Commission exercises discretion in granting or denying such a request.

Intervenors whole-heartedly agree with Commissioner Smith's statement at the close of the March 31st hearing on this matter that a kitchen-sink rehash of everything in the record before the Commission is neither necessary nor desirable.

In response to TracFone's request at the conclusion of the March 31st hearing for the opportunity to file a post-hearing brief, Commissioner Smith specifically directed TracFone to limit its request to specific legal issues that it believes merit additional briefing by the parties. When counsel for TracFone, Mr. Brecher, suggested that the issue of whether TracFone is legally obligated to collect and remit 911 surcharge fees pursuant to Section 31-4804, Idaho Code should be briefed, Commissioner Smith responded that since TracFone has taken the position that the Commission does not have jurisdiction over the issue, further briefing on that issue would be pointless. The Intervenors concur.

April 14, 2011

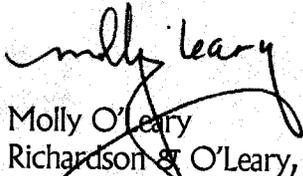
Furthermore, contrary to Commissioner Smith's directive to TracFone that any request for post-hearing briefs must include an identification of specific, discreet legal issues to be briefed, no other issues were identified in TracFone's April 8th letter.

Based on TracFone's position that the Commission lacks authority to adjudicate whether it is required to collect or remit 911 surcharge fees under the Idaho Emergency Communications Act ("IECA"), coupled with TracFone's failure to identify any other specific legal issues that merit post-hearing briefing, TracFone has failed to establish any compelling reason for such briefing. Therefore, its request should be denied.

In addition, given TracFone's belated concerns regarding moving this matter along toward a conclusion, the proposed briefing schedule would only result in further unnecessary delay. (In fact, TracFone's proposed three-week time frame for filing its initial brief on an issue that it has briefed exhaustively in more than a half-dozen other jurisdictions, in addition to the Federal Communications Commission, appears to be an inexplicable delay tactic.)

If, however, the Commission is inclined to grant TracFone's request for the opportunity to file a post-hearing brief, we believe the parties' post-hearing briefs should be limited to the one issue TracFone has identified for briefing (TracFone's obligations under the IECA). Furthermore, such a concession to TracFone should only be granted if TracFone stipulates that it will be bound by the Commission's decision regarding its obligations under the IECA.

Sincerely,


Molly O'Leary
Richardson & O'Leary, PLLC

CC:

The Honorable Marsha Smith
The Honorable Mack Redford
The Honorable Paul Kjellander
Mr. Neil Price, Deputy Idaho Attorney General
Mr. D. Joe Miller, Esq.
Mr. Mitchell "Rick" Brecher, Esq.