

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF TRACFONE WIRELESS, INC. FOR)	CASE NO. TFW-T-09-01
DESIGNATION AS AN ELIGIBLE)	
TELECOMMUNICATIONS CARRIER)	ORDER NO. 32127
)	

PROCEDURAL BACKGROUND

On October 29, 2009, TracFone Wireless, Inc. ("TracFone" or "Company") filed an Application, pursuant to Section 214(e)(2) of the Communications Act of 1934, for designation as an eligible telecommunications carrier ("ETC"). *Application* at 1. TracFone is seeking ETC designation solely for the purpose of providing Lifeline service under its trade name SafeLink Wireless and will not seek funds from the federal Universal Service Fund. *Id.*

On February 5, 2010, the Commission issued an Order denying TracFone's Application. *See* Order No. 30996.

On March 1, 2010, TracFone filed a Petition for Reconsideration and an Amended Application for ETC designation. On March 8, 2010, Commission Staff filed an Answer to TracFone's Petition. Subsequently, TracFone submitted a letter withdrawing its Petition for Reconsideration and expressing its support for a process that would facilitate a Staff review and recommendation regarding its Amended Application within 60 days.

On May 14, 2010, CTC Telecom, Inc. dba Snake River PCS ("CTC") and Idaho Telecom Alliance ("ITA"), pursuant to Commission Rule of Procedure 71, IDAPA 31.01.01.71, each filed a *Motion to Intervene Out of Time and Petition to Intervene*. On May 19, 2010, TracFone filed, pursuant to Commission Rule of Procedure 75, IDAPA 31.01.01.075, a *Motion in Opposition of TracFone Wireless, Inc. to Petitions to Intervene of CTC Telecom, Inc. dba Snake River PCS and Idaho Telecom Alliance*. On May 24, 2010, CTC and ITA each filed replies to TracFone's *Motion in Opposition*.

On May 28, 2010, the Commission issued an Order granting CTC and ITA's Petitions to Intervene. *See* Order No. 31096. The Commission also mandated that the parties hold a scheduling conference "in order to develop an appropriate schedule going forward in this case, including a hearing if needed." *Id.* at 3.

SCHEDULING CONFERENCE

On November 15, 2010, representatives for TracFone, ITA, CTC and Commission Staff convened a scheduling conference at the Commission's office. ITA and CTC asserted that the Commission should hold a formal hearing in this case. All of the parties agreed that an identification of specific issues through the filing of prehearing briefs would be appropriate. The parties requested the Commission issue an Order establishing a deadline of December 17, 2010 for the filing of briefs. The parties believe that the development of a full case schedule would be premature until the Commission has issued a ruling outlining the relevant issues in this case.

MOTION FOR ADMISSION PRO HAC VICE

On November 16, 2010, TracFone filed a Motion requesting an Order for the Admission of Pro Hac Vice for Mitchell F. Brecher. Mr. Brecher certified that he is an active member, in good standing, of the bar of the State of Maryland and the District of Columbia. Mr. Brecher is not a resident of this state or a member of the bar of the State of Idaho. TracFone's local counsel, Mr. Dean J. Miller, acknowledges that his attendance shall be required at all court proceedings in which Mr. Brecher appears unless his attendance is excused by the presiding authority.

COMMISSION FINDINGS AND DISCUSSION

The Commission has considered the proposed procedure of the parties. The Commission is concerned that the request for a formal hearing may be obviated by the lack of a real factual dispute in this matter. If the only issues to be presented to the Commission are legal in nature, "the public interest may not require a hearing to consider the issues presented in [this] proceeding. . . ." Rule 201, IDAPA 31.01.01.201. The Commission could adequately evaluate the merits of TracFone's Application based upon a thorough briefing of the legal issues.

Therefore, the Commission orders the parties to identify any relevant factual disputes that may be present in this case. The parties shall file briefs outlining any legal and factual issues, if any, to be determined by the Commission in its deliberations regarding TracFone's Application for designation as an ETC in Idaho.

Based upon the affirmative representations of Mr. Miller and Mr. Brecher, the Commission finds that there are reasonable grounds to support the granting of the Motion for

Admission Pro Hac Vice on behalf of Mr. Brecher as legal counsel for TracFone in Case No. TFW-T-09-01.

CONCLUSIONS OF LAW

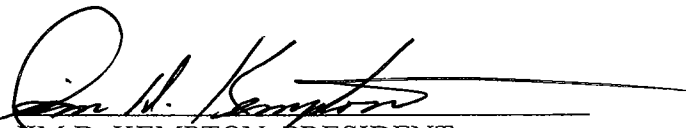
The Commission has jurisdiction in Case No. TFW-T-09-01 and the Motion for Limited Admission filed by Dean J. Miller, local counsel, and Mitchell F. Brecher, applying counsel, pursuant to Idaho Code, Title 62, and the Commission's Rules of Procedure 31.01.01.000 *et seq.*

ORDER

IT IS HEREBY ORDERED that the parties shall submit prehearing briefs outlining the legal and factual issues pertaining to this case. The prehearing briefs shall be filed with the Commission no later than **December 17, 2010**.

IT IS FURTHER ORDERED that the Motion for Admission Pro Hac Vice is granted. Mr. Mitchell F. Brecher is hereby granted limited admission in Case No. TFW-T-09-01 as legal counsel for TracFone Wireless, Inc.

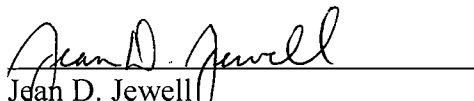
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 24th day of November 2010.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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