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Attorney for the Commission Staff

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**
) **STAFF'S ANSWER TO**
) **TRACFONE'S PETITION FOR**
) **RECONSIDERATION**
)

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, D. Neil Price, Deputy Attorney General, and, pursuant to Commission Rule of Procedure 331.05, does hereby submit Staff's Answer to TracFone's Petition for Reconsideration.

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") in the State of Idaho. *TracFone 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 for ETC designation without prejudice. *See* Order No. 30996. On February 26, 2010, TracFone notified the Commission Secretary, pursuant to Commission Rule of Procedure 331.04, and Staff that the Company had mailed its Petition for Reconsideration. On March 1, 2010, the Commission received TracFone's Petition for Reconsideration.

STAFF'S ANSWER TO TRACFONE'S PETITION FOR RECONSIDERATION

In its Petition, TracFone cites a litany of reasons why the Commission's Order reached incorrect legal conclusions and defends its Application as being in the public interest. Staff opposes TracFone's Petition for Reconsideration insofar as it makes a renewed request for ETC designation. Staff's original concern, which is reflected in the Commission's Order, is that TracFone's lack of good standing with the Idaho Secretary of State's Office amounted to a threshold problem with its Application and amply demonstrates that granting TracFone ETC status would not be in the public interest. *See* Order No. 29841 at 8. Because TracFone did not have a current Certificate of Authority from the Idaho Secretary of State, Staff did not make a thorough review of the remaining requirements necessary for designation as an ETC.

TracFone sought to cure this defect by filing an Amended Application as an attachment to its Petition for Reconsideration. The Company's Amended Application reveals that, subsequent to Staff's January 15, 2010 Decision Memorandum recommending that the Commission deny TracFone's ETC Application, TracFone filed for and received a Certificate of Authority from the Idaho Secretary of State's Office. *See First Amended Application of Applicant*, Exhibit 1.

Having complied with this initial registration requirement, Staff believes that a more complete review of TracFone's Amended Application is now warranted. Staff believes that the most efficient manner to process the Amended Application would be to deny TracFone's current Petition for Reconsideration and open a new comment period on TracFone's Amended Application. Staff believes that a 60-day comment period would be a sufficient amount of time to allow for a thorough Staff review and comment on the Amended Application.

CONCLUSION

Staff respectfully requests that the Commission deny TracFone's Petition for Reconsideration of Commission Order No. 30996 denying the Company's Application for Designation as an ETC in the State of Idaho and issue a Notice of Amended Application with a corresponding 60-day comment period.

Respectfully submitted this 8th day of March 2010.



D. Neil Price
Deputy Attorney General

N:TFW-T-09-01_np_Staff Answer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 8th DAY OF MARCH 2010, SERVED THE FOREGOING **STAFF'S ANSWER TO TRACFONE'S PETITION FOR RECONSIDERATION**, IN CASE NO. TFW-T-09-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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