

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of a Petition of TracFone Wireless, Inc.)
for Designation as an Eligible Telecommunications)
Carrier in the State of Missouri and for the Limited)
Purpose of Offering Lifeline and Link Up Service to)
Qualified Households)
Case No. TA-2009-0327

**STAFF RESPONSE TO TRACFONE WIRELESS, INC.'S
APPLICATION FOR REHEARING**

COMES NOW Staff of the Missouri Public Service Commission (Staff), by and through counsel, and for its Staff Response to TracFone Wireless, Inc.'s Application for Rehearing states as follows:

1. On August 26, 2009, the Missouri Public Service Commission (the Commission) issued its Order Granting Designation as an Eligible Telecommunications Carrier (Order), (1) granting TracFone Wireless, Inc. (TracFone or the Company) designation as an eligible telecommunications carrier (ETC), subject to those conditions suggested by Staff and as set out in the Commission's Order, (2) granting the Company a waiver of Commission Rules 4 CSR 240-43.570(3)(A) and (3)(B), and (3) denying the Company's request for a waiver of Commission Rule 4 CSR 240-31.050(3). The Commission's Order bears an effective date of September 5, 2009.

2. On September 4, 2009, TracFone filed TracFone Wireless, Inc.'s Application for Rehearing (Application for Rehearing), seeking only reconsideration of the Commission's denial of TracFone's request for waiver of Commission Rule 4 CSR-31.050(3).

3. On September 8, 2009, the Commission issued its Order Shortening Time for Response, establishing September 11, 2009 as the deadline for parties to respond to TracFone's Application for Rehearing.

4. Applications for rehearing and reconsideration, generally, are governed by Section 386.500 RSMo¹, and Commission Rule 4 CSR 240-2.160. Section 386.500.2 states that such applications “shall set forth specifically the ground or grounds on which the applicant considers said order or decision to be unlawful, unjust, or unreasonable.” Section 386.500.4 provides that “[i]f, after a rehearing and a consideration of the facts, including those since the arising since the making of the order or decision, the commission shall be of the opinion that the original order or decision or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change, or modify the same.”

5. The facts have already been considered by the Commission in this matter. TracFone raises few new arguments in its Application for Rehearing, but rather reiterates those arguments that the Commission has found unpersuasive to date. Staff does not wish to burden the Commission with same responses to these same unpersuasive arguments, and therefore incorporates by reference those responses raised by Staff in the pleadings previously filed on its behalf in this matter.

6. In the one new suggestion raised by TracFone in its Application for Rehearing, the Company urges the Commission to adopt a “computer-based system” that would allow all ETC’s to confirm customer program participation eligibility. This system, as advocated by TracFone, is premised on *states* obtaining and provided to ETC’s the data necessary to confirm customer eligibility. First, it is improper for TracFone to raise this proposal at this point in these proceedings. No new facts are brought to light by this argument, TracFone offered no support for such a proposal during the proceeding, and Staff has had no opportunity to respond. Assuming, for the sake of argument, that this proposal can be made and considered at this time, the Staff

¹ Unless otherwise noted, all references to statute refer to the Missouri Revised Statutes (2000), as currently supplemented.

notes that it considered this sort of solution during the rulemaking proceeding in which 4 CSR 240.31.050 was amended. The proposed solution is not feasible because the social service agencies that hold the eligibility information quite properly hold it with the highest regard for the privacy of the individuals served and will not allow the Public Service Commission access to it. The only way to get the eligibility information is from the recipients themselves.

7. In conclusion, Staff would like to remind the Commission that the fact that TracFone's service offering will have no effect on the Missouri Universal Service Fund does not mean that TracFone's offering will not have an effect on Missouri ratepayers. The Commission's Order, including its decision to denying the Company's request for a waiver of Commission Rule 4 CSR 240-31.050(3) is lawful and reasonable and should not be altered, abrogated, or amended by this Commission.

WHEREFORE, Staff submits this Staff Response to TracFone Wireless, Inc.'s Application for Rehearing for the Commission's consideration in this matter.

Respectfully submitted,

/s/ Eric Dearmont

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 11th day of September, 2009.

/s/ Eric Dearmont