

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1437

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| In the Matter of |) | |
| |) | CITIZENS' UTILITY BOARD OF |
| TRACFONE WIRELESS, INC. |) | OREGON'S SUPPLEMENTAL |
| Application for Designation as an Eligible |) | MOTION TO COMPEL TRACFONE |
| Telecommunications Carrier |) | TO RESPOND TO CUB'S DATA |
| |) | REQUESTS AND FOR |
| |) | ADDITIONAL TIME TO ANALYZE |
| |) | AND FILE SUPPLEMENTAL |
| |) | TESTIMONY RELATED TO ANY |
| |) | ADDITIONAL INFORMATION |
| |) | PROVIDED EXPEDITED REVIEW |
| |) | REQUESTED |

On August 4, 2010, CUB filed a Motion to Compel requesting that the Administrative Law Judge order Tracfone to provide responsive answers to numerous data requests. At that time, several additional data requests had been propounded by CUB to Tracfone and Tracfone's responses were still pending. Tracfone has recently responded to all of the outstanding data requests. CUB does not believe that all of those responses are complete. The data requests and responses that CUB wishes to have the Administrative Law Judge rule upon, in addition to those submitted with the original Motion to Compel, are set forth below.

CUB respectfully requests that the ALJ consider and rule upon the following additional data requests.

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CUB DR 39 states:

Refer to TracFone's response to Staff DR 67. Please provide all of the quarterly reports submitted to the Ohio and Wisconsin PUCs since TracFone began providing SafeLink service in those jurisdictions.

Tracfone responded on August 5, 2010, stating:

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier in Oregon. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Red 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq.

CUB DR 40 states:

On a state by state basis, for as long as TracFone has provided SafeLink service in each jurisdiction, please provide the actual number of, and percentage of, SafeLink customers who never receive additional minutes after their first month of service, no matter the reason

Tracfone responded on August 5, 2010, stating:

TracFone objects to this data request to the extent that it seeks information that is not relevant to the determination of whether TracFone meets the legal requirements of 47 U.S.C. § 214(e)(1) and (2) for designation as an Eligible Telecommunications Carrier in Oregon. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Red 6371 (2005). Moreover, this information is not relevant to the determination of whether TracFone meets the requirements of the Commission's rules governing designation as an Eligible Telecommunications Provider under OAC 860-033-0001, et seq.

It is CUB's position that Tracfone's performance and experience in other jurisdictions is highly relevant to this matter. The Commission must make a decision as to whether or not

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TracFone's proposal is in the public interest. The Commission will have no basis on which to make a decision if it does not have a clear picture of the practices it can expect TracFone to follow in the State of Oregon. Therefore, CUB urges the Commission to Compel Tracfone to respond to CUB DRs 39 and 40.

CUB DR 42 states:

Calls made by CUB staff to TracFone's dedicated customer service line (1.800.378.1664) on the morning of July 28, 2010, received a message saying that due to the high volume of calls, the line was not currently accepting calls, and advised to call back later. Does TracFone keep track of how many calls to the customer service line receive this message? If so, please provide the actual number of calls that receive the message and the percentage of calls that receive the message.

Tracfone responded on August 9, 2010, stating:

TracFone objects to the second part of this data request since the question lacks specificity. The number of calls which receive the message referenced and the percentage of calls receiving that message vary depending on date, time and other factors. Notwithstanding the lack of specificity to the question, TracFone is in the process of compiling sample data and will provide that information when it has been compiled.

Tracfone's response is non-responsive. It does not indicate whether it keeps track of calls receiving a busy message. And, we have still to receive the promised numbers. CUB urges the Commission to Compel Tracfone to respond fully and completely to CUB DR 42.


In Conclusion, Tracfone's most recent responses to CUB's data requests have continued to exhibit Tracfone's reluctance to fully and completely answer even the most basic and relevant questions. CUB urges the Administrative Law Judge to Order TracFone to respond fully and completely to the data requests detailed in this supplemental motion as well as ordering

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TracFone to fully and completely answer the data requests that were the subject of CUB's original Motion to Compel.

DATED this 11th day of August, 2010.

Respectfully submitted,



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UM 1437 – CERTIFICATE OF SERVICE

I hereby certify that, on this 11th day of Aug., 2010, I served the foregoing **CITIZENS’ UTILITY BOARD OF OREGON’S SUPPLEMENTAL MOTION TO COMPEL TRACFONE TO RESPOND TO CUB’S DATA REQUESTS AND FOR ADDITIONAL TIME TO ANALYZE AND FILE SUPPLEMENTAL TESTIMONY RELATED TO ANY ADDITIONAL INFORMATION PROVIDED EXPEDITED REVIEW REQUESTED** in docket UM 1437 upon each party listed in the UM 1437 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending an original and 1 copy by U.S. mail, postage prepaid, to the Commission’s Salem offices.

(W denotes waiver of paper service)

(C denotes service of Confidential material authorized)

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UM 1437 - Certificate of Service **CITIZENS’ UTILITY BOARD OF OREGON’S SUPPLEMENTAL MOTION TO COMPEL TRACFONE TO RESPOND TO CUB’S DATA REQUESTS AND FOR ADDITIONAL TIME TO ANALYZE AND FILE SUPPLEMENTAL TESTIMONY RELATED TO ANY ADDITIONAL INFORMATION PROVIDED EXPEDITED REVIEW REQUESTED**

**OREGON DEPARTMENT OF
JUSTICE**
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Respectfully submitted,



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