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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1437

In the Matter of
TRACFONE WIRELESS, INC.
Application for Designation as an Eligible
Telecommunications Carrier.

**JOINT MOTION FOR RELIEF FROM
RULING DATED APRIL 26, 2011**

(Expedited consideration requested)

TracFone Wireless, Inc. ("TracFone"), Commission Staff ("Staff"), Citizens' Utility Board of Oregon ("CUB"), and Oregon Office of Emergency Management ("OEM") (collectively, the "Parties"), representing all of the parties to this case, respectfully move the Commission for relief from the Ruling dated April 26, 2011 (the "Ruling"). The Parties request that the Commission rescind the requirement in the Ruling that the Parties file briefs.

As set forth in the Ruling, at the hearing on April 21, 2011, TracFone's counsel stated that if the Parties were unable to reach a comprehensive settlement of all issues, then TracFone may request the opportunity to brief the question of whether the Commission has the authority to impose a surcharge on TracFone's Lifeline customers under the Residential Service Protection Fund ("RSPF") program. The ALJ stated in her Ruling that this is a legal question that the Commission must address whether or not the parties reach a comprehensive settlement, so the ALJ ordered the parties to submit briefs on this question by May 17, 2011. The due date for those briefs has been extended several times, and the briefs are now due by June 17, 2011.

In view of the fact that the Parties have reached a comprehensive settlement, and because of the specific the terms of that settlement, the Parties jointly submit that the Commission no longer needs to address this legal question in considering whether to approve or reject the terms of the settlement.

On June 10, 2011, the Parties filed a Stipulation that resolves all issues in this case. With respect to the RSPF surcharge, the Stipulation provides: "For the period of not less than two

1 years from the date of its ETC and ETP designations, TracFone will pay the RSPF surcharge to
2 the Commission for each of its enrolled Oregon Lifeline customers on behalf of those
3 customers." Stipulation, Paragraph 19. TracFone will pay the RSPF surcharge on behalf of
4 these customers for at least two years and until such time as there is a determination that
5 TracFone is not required to pay the RSPF surcharge for its Lifeline customers.¹

6 These terms of the Stipulation obviate any need for the Commission to decide this legal
7 question. The Parties have agreed that TracFone will pay the full amount of the RSPF surcharge
8 on behalf of its Lifeline customers, so the Commission does not need to decide at this time
9 whether TracFone is otherwise required to make such payments. Indeed, if the Commission
10 were to decide this issue notwithstanding the Parties' settlement, such a decision would either
11 have no impact on the settlement or may actually undercut the terms of the settlement and one or
12 more parties may seek to withdraw from the Stipulation. In the absence of such a Commission
13 decision, TracFone would continue to make the payments unless and until it sought and obtained
14 a decision terminating that obligation.

15 It goes without saying that settlement of disputes serves Oregon's public policy generally,
16 and is consistent with the Commission's policies as well. Quite often, as is the case here, cases
17 are settled at least in part because there are disputed questions of law or fact and the parties
18 prefer to reach an agreeable resolution in order to avoid the risk of an adverse decision. The
19 Parties are not aware of any legal requirement for the Commission to decide a disputed question
20 of law when all parties to a proceeding have reached a comprehensive settlement. The
21 Commission may or may not need to decide this legal question at some future date. If there is a
22 change in the law regarding application of the RSPF surcharge or if TracFone does not ask the
23 Commission to decide the issue, then the Commission may never need to address it. In any

24 _____
25 ¹ TracFone also agreed to pay an additional amount to the Commission's RSPF program for at least the same two-
26 year period, subject to certain other conditions. Stipulation, Paragraph 19. Since that additional payment is not
required by the statutes and rules regarding the RSPF program, the Ruling does not require the Parties to address
that additional payment in the briefing.

1 event, there is no need for the Commission to address the issue at this time. For these reasons,
2 the Parties respectfully request that the ALJ rescind the obligation for the Parties to file briefs
3 addressing a legal issue that the Parties have resolved in a proposed settlement.

4 In view of the impending June 17, 2011 due date for these briefs, the Parties respectfully
5 request that the ALJ consider this motion on an expedited basis. At the minimum, the Parties
6 request that the ALJ suspend the Ruling until it has adequate time to consider the impact of the
7 Stipulation on the Ruling. The Parties will be available for a conference if that would assist the
8 ALJ in deciding this motion.

9 DATED: June 13, 2011

PERKINS COIE LLP

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CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of June, 2011, served the foregoing **JOINT MOTION FOR RELIEF FROM RULING DATED APRIL 26, 2011** upon all parties of record in this proceeding by causing a copy to be sent by electronic mail:

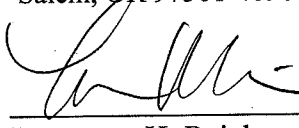
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