

ORDER NO.

14 123

ENTERED

APR 15 2014

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1437

In the Matter of

TRACFONE WIRELESS, INC.,

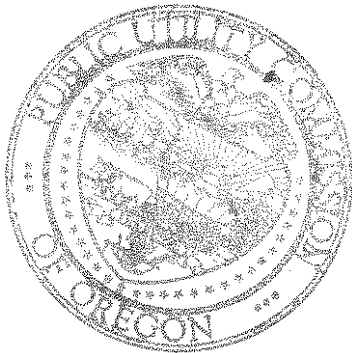
Petition for Waiver of OAR 860-033-0035(3).

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on April 15, 2014, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



Becky L. Beier

Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

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ITEM NO. CA1

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: April 15, 2014**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A

DATE: April 7, 2014

TO: Public Utility Commission

FROM: Jon Cray *JC*

THROUGH: Michael Dougherty *MD* and David Poston *DP*

SUBJECT: TRACFONE WIRELESS INC.: (Docket No. UM 1437) Petition for Waiver of OAR 860-033-0035(3).

STAFF RECOMMENDATION:

Staff recommends that the Public Utility Commission of Oregon (Commission) grant TracFone Wireless, Inc.'s (TracFone's) request for waiver of OAR 860-033-0035(3) with the modification that the waiver expire on September 30, 2014.

DISCUSSION:

On March 25, 2014, TracFone filed a petition requesting that the Commission waive the requirements of OAR 860-033-0035(3). OAR 860-033-0035(3) states:

An Eligible Telecommunications Provider that offers OTAP or Lifeline support service at no charge to the low-income customer must require the customer to call the Eligible Telecommunications Provider to activate the OTAP or Lifeline supported service. The Eligible Telecommunications Provider must require the low-income customer to provide the last four digits of his or her social security number or Tribal identification number before activating the OTAP or Lifeline service.

The Commission may waive any of the Division 33 administrative rules upon a showing of good cause. (See OAR 860-033-0001(2)) A waiver may be initiated upon the filing of a written request or on the Commission's own motion.

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Staff proposed the amendment of OAR 860-033-0035(3) in September 2013 in Docket No. AR 574. The Commission adopted the proposed rule in Order No. 13-475 entered December 19, 2014; it became effective on December 20, 2013. In adopting the new rule, the Commission concurred with Staff's supporting argument that "requiring the customer to activate the Lifeline or OTAP supported service is an important tool to prevent waste, fraud, and abuse because it helps to ensure that the eligible customer is the person that receives the handset."

In its petition, TracFone puts forth arguments as to why application of OAR 860-033-0035(3) to TracFone is not necessary to prevent waste, fraud and abuse of Lifeline support funds. To comply with the rule, TracFone will need to modify its activation process used in other states to meet Oregon's requirements.

Staff needs some time to gather more information from TracFone, and perhaps other Lifeline providers,¹ to formulate a well-founded recommendation to the Commission on whether good cause exists for waiver of this rule. Without some timely action of the part of the Commission, however, TracFone risks enforcement action.

Good cause exists to waive enforcement of OAR 860-33-0035(3) for a limited period of time. Staff proposes that the Commission grant a waiver to TracFone until September 30, 2014. The limited time period will address the immediate need for a waiver and will allow adequate time for Staff to develop a recommendation as to whether there is good cause for a longer-term waiver of the rule in question, or whether alternative measures are necessary.

PROPOSED COMMISSION MOTION:

TracFone's request for a waiver of OAR 860-033-0035(3) be granted until September 30, 2014.

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¹ Virgin Mobile USA, L.P. has also filed a Petition for Waiver of the rule in Docket UM 1522.