

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION )**  
**OF TRACFONE WIRELESS, INC. FOR ) CASE NO. TFW-T-09-01**  
**DESIGNATION AS AN ELIGIBLE )**  
**TELECOMMUNICATIONS CARRIER ) ORDER NO. 30996**  
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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”). *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 January 15, 2010, Commission Staff submitted a decision memorandum recommending that the Commission deny TracFone’s Application.

**THE APPLICATION**

TracFone is incorporated in the State of Delaware and is headquartered in Miami, Florida. *Id.* at 2. TracFone is a prepaid wireless service reseller of commercial mobile radio service (CMRS) throughout the United States, including the State of Idaho. *Id.* The Company provides service through a virtual network consisting of services obtained from numerous licensed operators of wireless networks and has provided CMRS service throughout the State of Idaho for the past ten years. *Id.* In Idaho, TracFone obtains service from several underlying carriers, including AT&T Mobility, T-Mobile, and Verizon Wireless that enable the Company to offer services wherever these providers offer service. *Id.*

TracFone proposes to provide a free handset and free service minutes based on the amount of federal USF low-income support available pursuant to the rules of the FCC. *Id.* at 21. This equates to approximately 67 minutes of free service per month. Each additional minute will be billed at \$.20 per minute. *Id.* at 22.

On April 9, 2008, the Federal Communications Commission (FCC) granted TracFone’s petition for forbearance with respect to the facilities-based service requirement. *Id.* at 4-5; *See also* FCC 08- 100. The FCC’s decision paved the way for TracFone to seek ETC designation in Idaho.

## STAFF ANALYSIS AND RECOMMENDATION

Staff reviewed the Application and noted that TracFone failed to provide Company contact information, Agent of Service information or a certificate of good standing from the Secretary of State's Office. Upon further investigation, Staff was advised by the Secretary of State's Office that TracFone's certificate to conduct business in Idaho was revoked on October 7, 2004, for failure to submit an annual report. Staff attached a copy of the Secretary of State Business Entity document to its memorandum and remarked that the Company will be required to re-file with the Secretary of State's Office as if it is a new company doing business in Idaho. *Id.*

TracFone's failure to submit the requisite annual report to the Secretary of State's Office suggested to Staff that granting ETC designation would not be in the public interest, nor did it elicit confidence that the Company would follow similar annual reporting requirements as outlined in Commission Order No. 29841. Staff also notes that low-income consumers are no longer limited to wireline ETC companies to receive the Idaho Telephone Service Assistance Program (ITSAP) and the federal Lifeline and Linkup benefits. Staff then listed several wireless ETC designated companies already providing service in Idaho. Accordingly, Staff recommended that TracFone's Application be denied. *Id.*

## COMMISSION DISCUSSION AND FINDINGS

The Commission "has full jurisdiction and authority to designate carriers as ETCs pursuant to the federal Telecommunications Act of 1996. . . ." Order No. 29841 at 2. In order to be designated an ETC, the telecommunications provider must: (1) be a "common carrier" as defined by 47 U.S.C. § 153(10); (2) offer throughout its proposed service areas the universal services set forth in 47 C.F.R. § 54.101(a) either by using its own facilities or a combination of its own facilities and the resale of another carrier's services; and (3) must advertise the availability of its universal service offering and the charges therefore using media of general distribution. 47 U.S.C. § 214(e)(1); *Id.* at 3. Additionally, TracFone has the burden of demonstrating that the public interest would be served by granting its ETC Application. *Id.* at 8

After a thorough review of TracFone's ETC request and Staff's recommendation, the Commission finds that TracFone has failed to meet the statutory requirements for ETC designation as set forth in 47 U.S.C. § 214(e)(1) and Commission Order No. 29841. The Commission finds that TracFone has failed to demonstrate that granting its Application for ETC

designation in Idaho would be in the public interest. TracFone's failure to comply with the minimal filing requirements of the Idaho Office of the Secretary of State is strong evidence that TracFone maintains a rather limited and tangential commitment to consumer service in the state of Idaho. *See id.* at 11 (ETC Applicant's commitment to consumer protection and service to be "considered on a case-by-case basis"). Moreover, granting TracFone's Application would not provide any additional benefit to low-income wireless subscribers in Idaho or provide significant competition within the proposed service area, as several wireless ETCs are currently providing the same wireless Lifeline service TracFone proposes to offer.

### **ORDER**


IT IS HEREBY ORDERED that the Application of TracFone Wireless, Inc. for designation as an Eligible Telecommunications Carrier is denied without prejudice.

THIS IS A FINAL ORDER. Any person interested in the Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

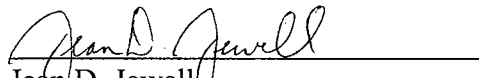
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 5<sup>th</sup>  
day of February 2010.

  
JIM D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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