

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners: Pat Apple, Chairman  
Shari Feist Albrecht  
Jay Scott Emler

In the Matter of the Application of TracFone )  
Wireless, Inc. for Designation as an Eligible )  
Telecommunications Carrier in the State of ) Docket No. 17-TFWZ-237-ETC  
Kansas for the Limited Purpose of Offering )  
Lifeline Services to Qualified Households. )

**ORDER SCHEDULING ORAL ARGUMENT**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

1. On December 5, 2016, TracFone Wireless, Inc. (TracFone) filed with the Commission an Application to expand its designation as an Eligible Telecommunications Carrier (ETC) and receive Kansas Universal Service Fund (KUSF) support for Lifeline service in Kansas.<sup>1</sup> The Application claimed that TracFone has met all applicable eligibility requirements for receiving KUSF support.<sup>2</sup>

2. On December 14, 2016, in response to TracFone's Application, Commission Staff (Staff) filed a Motion to Dismiss, arguing that TracFone's Application should be dismissed because TracFone does not meet Kansas' statutory requirements for receiving KUSF support for its proposed Kansas Lifeline service.<sup>3</sup> The Motion also argues Kansas' statutory requirements have not been pre-empted by federal law.<sup>4</sup>

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<sup>1</sup> TracFone Wireless, Inc., Application of TracFone Wireless, Inc. to Expand Designation as an Eligible Telecommunications Carrier to Receive Kansas Universal Service Fund Support for Lifeline Service, p. 1 (Dec. 5, 2016).

<sup>2</sup> *Id.* at p. 16.

<sup>3</sup> Motion to Dismiss, ¶ 29 (Dec. 14, 2016).

<sup>4</sup> *Id.*

3. On December 23, 2016, TracFone filed a Reply to Staff's Motion, asking the Commission to deny the Motion and promptly approve TracFone's Application.<sup>5</sup> TracFone also asked the Commission to convene a hearing should the Commission have questions about TracFone's Application and Lifeline proposal.<sup>6</sup> That same day, Staff responded to TracFone's Reply, again asking the Commission to dismiss TracFone's Application.<sup>7</sup>

4. On January 3, 2017, TracFone filed a Surreply to Staff's Response. TracFone proposed that if the Commission finds it appropriate, an oral argument should be held in this matter "so that the parties can address any questions that the Commission may have regarding the factual, legal and public interest considerations at issue in this proceeding."<sup>8</sup> TracFone noted its earlier request for a hearing, but asserted its belief that an oral argument would more appropriately address the issues in this proceeding.<sup>9</sup>

5. The Commission finds that TracFone's Application raises complex legal questions involving the relationship between state and federal law. Although the parties have significantly developed and argued their respective positions in the pleadings thus far, the Commission agrees with TracFone that oral argument affords the Commission the opportunity to seek specific answers from the parties regarding the issues raised in this proceeding. The Commission finds the public interest is served by the development of a full record in this case, and therefore, grants oral argument.

**THEREFORE, THE COMMISSION ORDERS:**

A. Oral argument shall be held in this proceeding on **Wednesday, March 29, 2017, at 9:00 a.m.** in the Commission's First Floor Hearing Room, 1500 SW Arrowhead Road, Topeka, Kansas 66604.

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<sup>5</sup> Reply of TracFone Wireless, Inc. to Motion to Dismiss, ¶ 13 (Dec. 23, 2016).

<sup>6</sup> *Id.*

<sup>7</sup> Staff's Response to TracFone's Reply, p. 3 (Dec. 23, 2016).

<sup>8</sup> Surreply to Staff's Response and Request for Oral Argument, ¶ 15 (Jan. 3, 2017).

<sup>9</sup> *Id.* at ¶ 15, fn. 23.

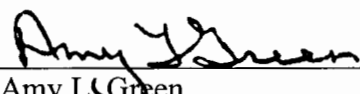
B. The parties have 15 days from the date of electronic service of this Order to petition for reconsideration.<sup>10</sup>

F. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it deems necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: MAR 02 2017

  
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Amy L. Green  
Secretary to the Commission

MJD/sc

**MAILED**

MAR 02 2017

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<sup>10</sup> K.S.A. 66-118b; K.S.A. 77-529(a)(1).

**CERTIFICATE OF SERVICE**

17-TFWZ-237-ETC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

Electronic Service on MAR 02 2017.

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**MAILED**

MAR 02 2017