

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF TRACFONE WIRELESS, INC.)	
FOR DESIGNATION AS AN ELIGIBLE)	
TELECOMMUNICATIONS CARRIER IN THE)	CASE NO.
COMMONWEALTH OF KENTUCKY FOR THE)	2009-00100
LIMITED PURPOSE OF OFFERING LIFELINE)	
AND LINK UP SERVICE TO QUALIFIED)	
HOUSEHOLDS)	

O R D E R

On March 5, 2009, TracFone Wireless, Inc. ("TracFone") filed a petition for designation as an Eligible Telecommunications Carrier ("ETC") in Kentucky for the limited purpose of offering Lifeline and Link-Up Service to qualified low-income households. Although there are no statutory deadlines for deciding ETC applications, the Commission strives to make expedient decisions; but TracFone has an issue of special importance regarding the support of 911 and Enhanced 911 ("E911") pending in federal district court that the Commission feels must be addressed before it can issue a decision on TracFone's ETC application. The Commission, upon its own motion, finds that this matter cannot move forward until a final order has been rendered by the Western District Court of Kentucky in the matter of *Commonwealth of Kentucky Commercial Mobile Radio Service Emergency Telecommunications Board v. TracFone Wireless, Inc.*, Western District of Kentucky Case No. 3:08-cv-660-JGH ("CMRS Board v. TracFone").

The provision of 911 and E911 services are vital to the safety and welfare of all Kentuckians. 911 and E911 services are especially critical to Lifeline customers, such as those whom TracFone petitions to serve, because the Lifeline service may be a customer's only access to emergency services. ETC designation includes full compliance with obligations to both provide and support 911 and E911 services pursuant to KRS 65.7621, et seq. ("CMRS Act"). At issue in *CMRS Board v. TracFone* is TracFone's obligation to comply with the financial provision to support 911 and E911 services pursuant to the CMRS Act. Additionally, TracFone's request for ETC designation in Kentucky would be subject to the condition that TracFone certify that it is in full compliance with state level 911 and E911 obligations, including obligations relating to the provision and support of such service before receiving Lifeline universal service support.¹ All ETC designations rendered by a state commission must be consistent with the public interest, convenience, and necessity, as required under 47 U.S.C. § 214(e), and compliance with state level 911 and E911 obligations falls squarely into the Commission's review of a carrier's request for such designation.

The Commission acknowledges that the collection of the surcharge pursuant to the CMRS Act does not fall within the Commission's jurisdiction. Although the collection of the 911 surcharge is not a responsibility of the Commission, that fact does not mean the Commission is not extremely cognizant of this important issue. The Commission finds that the extraordinary importance of ensuring that all Kentuckians, especially low-income Kentuckians, have access to emergency services compels the Commission to

¹ See *In the Matter of Federal-State Joint Board on Universal Service; TracFone Wireless, Inc. Petition to Rescind State 911/E911 Condition*, CC Docket No. 96-45, Order, 24 FCC Rcd 4661 (2010).

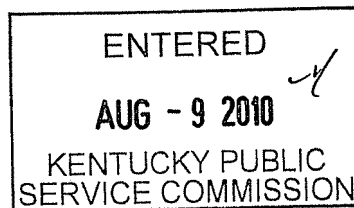
defer issuing a decision on this matter until federal district court has decided whether TracFone is obligated to comply with statutory funding of 911 and E911 services.

IT IS THEREFORE ORDERED that:

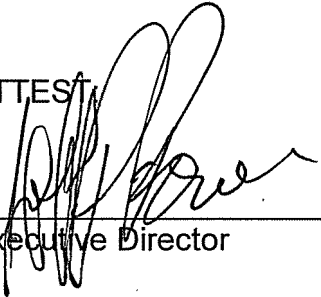
1. The Commission's decision on TracFone's ETC application shall be deferred pending a final decision in Western District Court of Kentucky Case No. 3:08-cv-660-JGH.

2. TracFone must file with the Commission an original and ten copies of the final Order regarding TracFone's financial obligation pursuant to KRS 65.7621, et seq., when it is rendered by the Western District Court of Kentucky in Case No. 3:08-CV-660-JGH.

By the Commission



ATTEST



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