

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALLEGED FAILURE OF TRACFONE)	CASE NO.
WIRELESS, INC. TO FILE REQUIRED)	2011-00322
REPORTS)	

O R D E R

KRS 278.140 requires each utility to file, on or before March 31 of each year, a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year. Based upon these reports, the Commission, pursuant to KRS 278.150, certifies to the Department of Revenue and the Finance and Administration Cabinet the intrastate revenue so collected. The Department of Revenue, pursuant to KRS 278.130 and for the purpose of maintaining the Commission, then assesses each utility in proportion to its receipts from intrastate business for the preceding calendar year. KRS 278.990 provides penalties for utilities that fail to file the required reports.

TracFone Wireless, Inc. ("TracFone Wireless") transmits or conveys over wire, in air, or otherwise, messages by telephone for the public for compensation in the Commonwealth of Kentucky. It is, therefore, a utility subject to Commission jurisdiction.¹

¹ KRS 278.010(3)(e).

KRS 278.990(1) states that any utility which willfully violates any provision of KRS Chapter 278 or any Commission regulation shall be subject to a civil penalty not less than \$25.00 and not more than \$2,500.

On December 15, 2010, the Commission provided to TracFone Wireless the standard forms for the report of gross earnings from intrastate business. According to Commission records, TracFone Wireless has yet to file its Cellular gross operating report for the 2010 calendar year with the Commission. The absence of this report from Commission records constitutes *prima facie* evidence that TracFone Wireless has willfully failed to comply with KRS 278.140.

IT IS THEREFORE ORDERED that:

1. TracFone Wireless shall file with the Commission, no later than October 20, 2011, its Cellular gross operating report for the 2010 calendar year.

2. TracFone Wireless shall appear on October 27, 2011, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of showing cause why it should not be subjected to the penalties of KRS 278.990 for its failure to comply with KRS 278.140.

3. In the absence of such showing, and without further Order, TracFone Wireless' authorization to provide service shall be revoked, its tariff shall be removed from the Commission's files, and its name shall be stricken from the Commission's list of active utilities.

4. If TracFone Wireless desires to waive its right to a hearing in this matter, it shall, no later than October 20, 2011, file the required report and pay a penalty of \$250. Payment of the penalty shall be made by certified check or money order made payable

to the Treasurer, Commonwealth of Kentucky, and shall be delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602-0615.

By the Commission

ENTERED *an*
OCT 12 2011
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Richard B Salzman
Executive VP and General Counsel
TracFone Wireless, Inc.
9700 NW 112th Street
Miami, FL 33178