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COMMISSION

May 15, 2013

**VIA HAND DELIVERY**

Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40601

**Re: Case No. 2011-00322; In the Matter of: Investigation of the Failure of  
TracFone Wireless, Inc. to File Required Reports**

Dear Sir/Madam:

On April 25, 2013, a hearing was held in the above-captioned matter. During the hearing, Staff counsel requested that TracFone Wireless, Inc. ("TracFone") provide responses to three post-hearing information requests. By this letter and attachment, TracFone submits the information requested by Staff.

**Request No. 1 – List all states where TracFone is regulated as a utility.**

TracFone has been determined to be a utility and regulated as such in two states – California and Indiana.

**Request No. 2 – State whether TracFone remits taxes in Kentucky**

TracFone remits the following taxes in Kentucky:

Sales tax

Corporate income tax

Limited liability entity tax

Communications services tax

Payroll tax – unemployment tax and income tax withholding

Public Service Commission Assessment based on gross operating revenue – for reasons described during this proceeding, TracFone reports no gross earnings since it is not a utility under Kentucky law. However, it remits an annual minimum payment of \$50.

E911 fee on direct sales.

**Request No. 3 – Provide a list of TracFone’s Kentucky customers.**

TracFone is unable to provide a list of its Kentucky customers for several reasons. First, TracFone does not maintain such a list and is not required to do so. Consumers may purchase TracFone airtime cards at various retail vendor locations, including locations in Kentucky. Consumers may then activate their purchased airtime by contacting the company. They must provide the telephone number of the handset on which the prepaid airtime is to be activated. However, consumers are not required to provide name, address or other customer identifying information. (One partial exception is TracFone’s SafeLink Wireless® Lifeline service which it offers as an Eligible Telecommunications Carrier. Pursuant to FCC rule, Lifeline providers must obtain customer identification information in order to become enrolled in Lifeline). Other than for Lifeline customers, the only information which TracFone could provide would be a list of telephone numbers assigned to Kentucky customers. That list, which would contain no customer identification information, would consist of thousands of pages of telephone numbers.

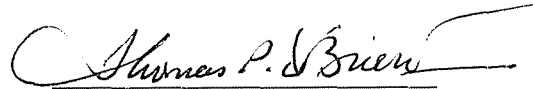
More importantly, provision of customer identifying information to the Commission in response to this request is prohibited by federal law. The Commission’s attention is directed to 18 U.S. Code § 2703 (Required Disclosure of Customer Communications or Records). 18 U.S.C. § 2703(c) explicitly permits provision of information regarding telephone customers or subscribers to government entities only in three circumstances:

- (A) When the government entity obtains a warrant issued using the procedures described in the Federal Rules of Criminal Procedure (or, in the case of a State court, using State warrant procedures) by a court of competent jurisdiction;
- (B) When the government obtains a court order for such disclosure;
- (C) When the government entity has the consent of the subscriber or customer to such disclosure;
- (D) When the government entity submits a written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing; or
- (E) Pursuant to an administrative subpoena authorized by federal or state statute or a federal or state trial subpoena (see 18 U.S.C. § 2703(c)(2)).

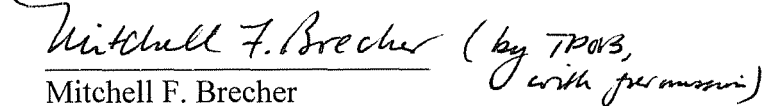
None of those enumerated circumstances in 18 U.S.C. § 2703(c) are applicable to the Commission’s request for TracFone customer information. Accordingly for these reasons, TracFone cannot lawfully provide a list of its Kentucky customers.

If there are questions regarding the information provided herein, please contact undersigned counsel for TracFone.

Sincerely,



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(by TP OB, with permission)

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cc: Jeb Pinney, Esq.

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