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Before the
ARIZONA CORPORATION COMMISSION RECEIVED

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In the Matter of the Application of TracFone
)
Wireless, Inc. for Designation as an Eligible
)
Telecommunications Carrier in the State of Arizona
)
for the Limited Purpose of Offering Lifeline Service
)
to Qualified Households in Arizona
)

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL
Docket No. T-20664A-09-0148

TRACFONE WIRELESS, INC.'S FOURTH SUPPLEMENTAL COMPLIANCE FILING

TracFone Wireless, Inc. ("TracFone"), by its undersigned counsel, submits this Fourth Supplemental Compliance Filing in accordance with the March 9, 2011 Order in this matter.

The March 9, 2011 Order states that TracFone shall file an affidavit stating that it has submitted letters (as well as attach to its filing such letters) to the Arizona Department of Administration; the Arizona Commission for the Deaf and Hard of Hearing (Telecommunications Relay Service); and the Arizona Corporation Commission, seeking a determination as to whether the fees, over which the agencies have jurisdiction, apply to TracFone's services as an Eligible Telecommunications Carrier in Arizona. TracFone filed the required affidavit and letters with the Commission on March 31, 2011.

The March 9, 2011 Order further provides that TracFone shall, within 10 days of receipt, file as a compliance item in this docket any responses or determinations by the above agencies of the applicable and/or non-applicable fees to be paid by TracFone. TracFone received a response from the Department of Administration on July 29, 2011. By this filing, TracFone provides a copy of the response as Attachment 1.

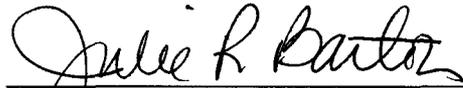
Arizona Corporation Commission

DOCKETED

AUG 2 2011

DOCKETED BY

Respectfully submitted,



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Counsel for TracFone Wireless, Inc.

August 2, 2011

CERTIFICATE OF SERVICE

This is to certify that I have duly served TracFone Wireless, Inc.'s Fourth Supplemental Compliance Filing electronically and by U.S. Mail on all parties listed, as indicated, on the 2nd day of August, 2011, addressed as follows:

Yvette B. Kinsley
Administrative Law Judge
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007
ykinsley@azcc.gov
** via electronic mail*

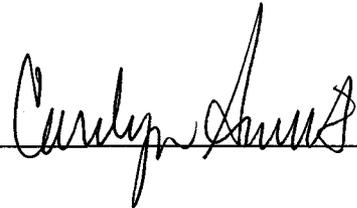
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Handwritten signature of Carolyn Smith, written in black ink over a horizontal line.

Attachment 1

Janice K. Brewer
Governor



Scott A. Smith
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

OFFICE OF THE DIRECTOR

100 NORTH FIFTEENTH AVENUE • SUITE 401
PHOENIX, ARIZONA 85007

(602) 542-1500

July 25, 2011

Mitchell F. Brecher, Esq.
Greenberg Traurig, LLP
2101 L Street, N.W., Suite 1000
Washington, D.C. 20037

Re: TracFone Wireless Inc. – Arizona Emergency
Telecommunications Services Revolving Fund

Dear Mr. Brecher:

I am writing in response to your request regarding TracFone Wireless, Inc. ("TracFone"). TracFone is seeking clarification as to whether they are required to pay the tax that funds the Arizona Emergency Telecommunications Services Revolving Fund pursuant to A.R.S. § 42-5252. The fund is maintained by our State 9-1-1 Program.

In its letter, TracFone maintains that it should not be subject to the tax for emergency telecommunications services because it is a prepaid wireless telecommunications service that does not distribute invoices to customers. TracFone relies upon A.R.S. § 42-5252(C), which states: "Each provider shall state on the invoice to customers a separate line item stating the amount of tax levied". TracFone also contends that prepaid providers would be at a competitive disadvantage in comparison to post-paid or billing providers if they must pay the tax directly from their own funds, as opposed to collecting it from their customers.

We have reviewed TracFone's inquiry and the pertinent statutes regarding the tax in question. We also met with individuals from the Department of Revenue to determine if that agency has taken a formal position regarding this question. The Department of Revenue informed us that it has in fact taken a position, and prepaid wireless providers such as TracFone are required to pay the tax pursuant to A.R.S. § 42-5252.

Furthermore, the Department of Revenue directed us to a ruling in Maricopa County Superior Court between its agency and Virgin Mobile USA, L.P., which they consider dispositive of the issue. Virgin Mobile U.S.A. v. Ariz. State Dep't

Mitchell F. Brecher, Esq.
July 25, 2011
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of Revenue, TX2009-000238]. In its decision, the Court found that A.R.S. § 42-5252 does indeed apply to wireless providers. Specifically, the Court held "A.R.S. § 42-5252(A) does not levy a tax on 'customers'.... Instead, it levies a flat tax on the provider for 'each activated wire and wireless service account'.... The statute does not indicate that the provider is excused from paying the tax because disclosing it on an invoice is difficult or impossible."

Based upon the foregoing, it is our position that TracFone is not exempt from the provisions of A.R.S. § 42-5252.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Smith", written over a horizontal line.

Scott Smith
Director

cc: Lori Morrison, Arizona Corporation Commission, Utilities
Maureen Scott, Arizona Corporation Commission, Legal
Barbara Jaeger, ADOA, State 9-1-1 Administrator