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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Limited Purpose of Offering Lifeline Service to Qualified Households	Docket No. 09-2511-01
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**REBUTTAL TESTIMONY OF
DOUGLAS DUNCAN MEREDITH
ON BEHALF OF THE
UTAH RURAL TELECOM ASSOCIATION**

1 **Q: PLEASE STATE YOUR FULL NAME, PLACE OF EMPLOYMENT AND**
2 **POSITION.**

3 A: My full name is Douglas Duncan Meredith. I am employed by John Staurulakis, Inc.
4 (“JSI”) as Director – Economics and Policy. JSI is a telecommunications consulting firm
5 headquartered in Greenbelt Maryland. My office is located at 547 Oakview Lane,
6 Bountiful, Utah 84010. JSI has provided telecommunications consulting services to rural
7 local exchange carriers since 1963.

8 **Q: PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE AND**
9 **EDUCATIONAL BACKGROUND.**

10 A: As the Director of Economics and Policy at JSI, I assist clients with the development
11 of policy pertaining to economics, pricing and regulatory affairs. I have been
12 employed by JSI since 1995. Prior to my work at JSI, I was an independent research
13 economist in the District of Columbia and a graduate student at the University of
14 Maryland – College Park.

15
16 In my employment at JSI, I have participated in numerous proceedings for rural and
17 non-rural telephone companies. These activities include, but are not limited to, the
18 creation of forward-looking economic cost studies, the development of policy
19 related to the application of the rural safeguards for qualified local exchange
20 carriers, the determination of Eligible Telecommunications Carriers, and the
21 sustainability and application of universal service policy for telecommunications
22 carriers.

23

24 In addition to assisting telecommunications carrier clients, I have served as the
25 economic advisor for the Telecommunications Regulatory Board of Puerto Rico
26 since 1997. In this capacity, I provide economic and policy advice to the Board
27 Commissioners on all telecommunications issues that have either a financial or
28 economic impact. I have participated in a number of Arbitration panels established
29 by the Board to arbitrate interconnection issues under Section 252 of the
30 Telecommunications Act of 1996 (the "Act").

31
32 I am participating or have participated in numerous national incumbent local
33 exchange carrier and telecommunications groups, including those headed by NTCA,
34 OPASTCO, USTA, and the Rural Policy Research Institute. My participation in
35 these groups focuses on the development of policy recommendations for advancing
36 universal service and telecommunications capabilities in rural communities and
37 other policy matters.

38
39 I have testified or filed pre-filed regulatory testimony in various states including
40 Utah, South Carolina, New Hampshire, New York, Michigan, Wisconsin, North
41 Dakota, South Dakota, Vermont, Texas, Kentucky, Maine and Tennessee. I have
42 also participated in regulatory proceedings in many other states that did not require
43 formal testimony, including Florida, Louisiana, Mississippi, North Carolina, Puerto
44 Rico and Virginia. In addition to participation in state regulatory proceedings, I
45 have participated in federal regulatory proceedings through filing of formal

46 comments in various proceedings and submission of economic reports in an
47 enforcement proceeding.

48
49 I have a Bachelor of Arts degree in economics from the University of Utah, and a
50 Masters degree in economics from the University of Maryland – College Park.
51 While attending the University of Maryland – College Park, I was also a Ph.D.
52 candidate in Economics. This means that I completed all coursework,
53 comprehensive and field examinations for a Doctorate of Economics without
54 completing my dissertation.

55 **Q: ON WHOSE BEHALF ARE YOU TESTIFYING?**

56 A: I am testifying in this docket on behalf of the Utah Rural Telecom Association
57 (“URTA”). URTA is comprised of fourteen independent telephone companies
58 serving customers throughout rural Utah.

59 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

60 A: My purpose in providing this testimony to the Public Service Commission of Utah
61 (“Commission”) is to respond to Mr. Jose Fuentes’ direct testimony filed on behalf
62 of TracFone Wireless, Inc. (“TracFone”) in this proceeding in which TracFone is
63 seeking designation as an eligible telecommunications carrier (“ETC”). I make
64 specific policy recommendations and urge the Commission to adopt my
65 recommendations in this proceeding.

66 **Q: DO YOU HAVE CONCERNS ABOUT TRACFONE’S PROPOSAL IN THIS**
67 **PROCEEDING?**

68 A: Yes. In his testimony, Mr. Fuentes makes it clear that TracFone is not seeking high
69 cost support from the federal Universal Service Fund (Fuentes Direct at 15), but he
70 makes no such commitment with respect to the state Universal Public
71 Telecommunications Service Support Fund (“state USF”). In its December 3, 2009
72 response to URTA’s petition to intervene in this matter, TracFone stated it would
73 not seek support from the state USF, but that commitment is not present in the direct
74 testimony and should be made on the record.

75 **Q: WHY DOES NO STATEMENT REGARDING THE STATE USF CAUSE**
76 **CONCERN?**

77 A: Under Commission rule R746-360-6, a service provider becomes eligible to receive
78 funds from the state USF when the Commission designates it as an ETC. If
79 TracFone were designated an ETC in URTA members’ service territories and
80 qualified to receive state USF support, that could increase the demands on the state
81 USF and potentially jeopardize service in high-cost areas.

82 **Q: HAS THE COMMISSION FACED THIS ISSUE BEFORE?**

83 A: Yes. Several years ago, WWC Holding Co. Inc. (“Western Wireless” or “WWC”)
84 sought statewide ETC status as a wireless service provider and the Commission
85 denied the petition because of the impact it could have on the state USF and on
86 service in rural Utah.

87 **Q: WHAT OCCURRED IN THE WESTERN WIRELESS CASE?**

88 A: WWC challenged the Commission’s decision before the Utah Supreme Court, but
89 the Court upheld the decision in *WWC Holding Co. Inc. v Public Service*
90 *Commission of Utah*, 44 P.3d 714, 2002 UT 23. The Court agreed that there was

91 insufficient evidence of any benefits to offset the potential harm designating WWC
92 an ETC would do to the state USF and to service in rural Utah.

93 **Q: WHAT IS YOUR RECOMMENDATION TO THE COMMISSION IN THIS**
94 **PROCEEDING ON THIS ISSUE?**

95 A: I recommend that if the Commission determines it is in the public interest to
96 designate TracFone an ETC on a statewide basis the Commission explicitly prohibit
97 TracFone from receiving any support from the state USF.

98 **Q: DO YOU HAVE OTHER CONCERNS WITH TRACFONE'S PROPOSAL?**

99 A: Yes. Throughout Mr. Fuentes' testimony, he emphasizes that TracFone provides
100 911 service in accordance with the Federal Communications Commission's
101 forbearance order in CC Docket No. 96-45 and in furtherance of the public interest,
102 but he does not address TracFone's payment for the 911 service.

103 **Q: IS THE OFFERING OF 911 SERVICE IN THE PUBLIC INTEREST?**

104 A: Yes. The provision of 911 service is an important service offered to end-user
105 customers in Utah. Funding for the operation of this important service is provided
106 through end-user surcharges. For example, my Qwest service includes a state 911
107 charge and a local 911 charge I pay for monthly phone service.

108 **Q: HOW DOES TRACFONE PROPOSE TO PAY FOR 911 SERVICE IN**
109 **UTAH?**

110 A: It is my understanding that TracFone does not pay for operation of 911 service.

111 **Q: HOW DOES TRACFONE JUSTIFY NOT PAYING FOR THE SERVICE?**

112 A: Again, based on my understanding, TracFone justifies not paying for the operation
113 of 911 service on grounds that its customers prepay for phone service and are not
114 “billed.” Generally, the 911 surcharge is billed on a customer’s bill.

115 **Q: WHAT DIFFERENCE DOES THAT MAKE?**

116 A: Apparently TracFone takes the position that prepaying customers are not required to
117 pay the 911 surcharge because they are not billed through a billing process at a
118 billing address as contemplated by the 911 statute.

119 **Q: DON’T ALL SERVICE PROVIDERS HAVE TO IMPOSE A 911**
120 **SURCHARGE?**

121 A: Yes. With the exception of payphones, all service providers, including VoIP
122 providers, are required to impose a surcharge under Utah Code Ann. § 69-2-5 to pay
123 for 911 service.

124 **Q: DOESN’T TRACFONE KEEP TRACK OF ITS CUSTOMERS ON A**
125 **MONTHLY BASIS?**

126 A: Yes. The fact that TracFone customers sign up for service and are allowed 67
127 minutes of service each month indicates that TracFone keeps track of customers’
128 usage on a monthly basis. TracFone should be required to help pay for 911 service.

129 **Q: WHAT IS THE EFFECT IF TRACFONE WERE ALLOWED TO OPERATE**
130 **WITHOUT PAYING ITS SHARE FOR THE OPERATION OF 911 IN**
131 **UTAH?**

132 A: Allowing TracFone to operate as an ETC in Utah without having to pay its share for
133 the operation of 911 service would give TracFone a competitive advantage against
134 the other providers operating in Utah. In addition, it could seriously erode the

135 revenues of the 911 program if TracFone is successful in taking customers from
136 other providers. This would not be in the public interest and should be a factor the
137 Commission considers in this proceeding.

138 **Q: HAS THIS ISSUE BEEN RAISED IN OTHER TRACPHONE**
139 **PROCEEDINGS ANYWHERE ELSE?**

140 A: It was raised before the Colorado Public Utilities Commission in Docket No. 09A-
141 393T.

142 **Q: WHAT OCCURRED IN THE COLORADO DOCKET?**

143 A: Parties representing Public Safety Answering Points (“PSAPs”) intervened and
144 objected to TracFone not imposing the 911 surcharge to pay for 911 service. The
145 PSAPs were very concerned about the negative impact TracFone’s service could
146 have on their revenues. Rather than agreeing to impose the surcharge, TracFone
147 withdrew its application in Colorado. I have attached the PSAPs’ testimony and
148 TracFone’s Notice of Withdrawal to this testimony as Attachments 1 and 2
149 respectively.

150 **Q: DO YOU KNOW IF TRACFONE INTENDS TO CHARGE THEIR**
151 **CUSTOMERS FOR THE HEARING AND SPEECH IMPAIRED PROGRAM**
152 **THAT OPERATES IN UTAH?**

153 A: No I don’t. However, if TracFone doesn’t charge its customers for the hearing and
154 speech impaired program, TracFone will have a competitive advantage over other
155 carriers, as I described above, and revenues for that program will erode just as they
156 will for the 911 program.

157 **Q: DO YOU KNOW IF TRACFONE INTENDS TO CHARGE THEIR**
158 **CUSTOMERS FOR THE POISON CONTROL PROGRAM THAT**
159 **OPERATES IN UTAH?**

160 A: No, but it is unlikely that TracFone will charge for Poison Control because it is
161 imposed on providers that charge the 911 charge. If TracFone elects not to make
162 payments to poison control, this raises public interest concerns. All of these
163 programs are in the public interest and the burden for paying for them should fall on
164 all providers since the programs are available to all customers and can be used by
165 everyone.

166 **Q: WHAT DO YOU RECOMMEND?**

167 I recommend that the Commission not designate TracFone an ETC unless TracFone
168 agrees to pay for the operation of programs for which all other providers must
169 charge their customers. To allow one provider to forgo these charges gives them a
170 competitive advantage and will harm the public programs and is not in the public
171 interest.

172 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

173 A. Yes.

CERTIFICATE OF SERVICE

I certify that on April 5, 2010, I caused to be served the Prefiled Rebuttal Testimony of Douglas D. Meredith filed on behalf of the Utah Rural Telecom Association in Docket 09-2511-01 by electronic mail on the following:

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