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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Investigation on the Commission's own Motion into the alleged failure of TracFone Wireless, Inc. (U-4321-C) to collect and remit public purpose program surcharges and user fees on revenue from its sale of intrastate telephone service to California consumers, in violation of the laws, rules and regulations of this State; Order to Show Cause why Respondent should not immediately be ordered to pay all such outstanding sums plus interest, and be subject to penalties for such violations

I.09-12-016  
(Filed December 17, 2009)

**MOTION OF TRACFONE WIRELESS, INC. TO STRIKE PORTIONS OF THE  
TESTIMONY OF CPSD WITNESS LLELA TAN-WALSH**

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, TracFone Wireless, Inc. ("TracFone") hereby moves to strike identified portions of the testimony submitted by CPSD witness Llela Tan-Walsh.

As detailed here, this Motion is made concurrently with TracFone's Response to the January 10, 2011 Motion of CPSD to Strike Portions of the Testimony of TracFone witnesses Pollak and Salzman ("CPSD Motion to Strike") and, to the extent that CPSD's motion is granted, seeks comparable treatment in terms of Ms. Tan-Walsh's testimony. In general, TracFone believes that both sets of testimony should be accepted as submitted such that the Commission and the ALJ have full testimonial presentations available when deciding the issues in this case. If, however, TracFone's testimony is stricken, then CPSD's own testimony must be considered in the same light and under the same standard.

**I. THE JANUARY 19, 2011 E-MAIL FROM ALJ DeANGELIS**

On January 19, 2011, ALJ DeAngelis sent an e-mail to the service list in this proceeding which has a significant impact on this proceeding. In that e-mail, the ALJ indicated that she

would issue a ruling within the next few days that: (a) no triable issues of material fact exist as to whether TracFone operates in California as a public utility or as a telephone corporation; (b) as a matter of law, TracFone is a public utility and telephone corporation; and (c) the upcoming hearings will not address this issue. Instead, ALJ DeAngelis indicated that the hearings will focus on whether the public purpose program (“PPP”) surcharges and the user fee apply to TracFone’s service as a public utility and telephone corporation.

At the time of the e-mail, TracFone was finalizing this Motion to Strike Portions of the Testimony of CPSD Witness Llela Tan-Walsh and the concurrent Response to CPSD’s January 10, 2011 Motion to Strike portions of the TracFone testimony and had planned to file both documents on January 19, 2011. In light of the announced ruling, however, TracFone anticipates that some action will need to be taken to identify the portions of the testimony submitted by TracFone and CPSD in this proceeding that will not be addressed in the hearing. To the extent that the ALJ Ruling eliminates the need for the sections of the testimony addressing public utility status, TracFone acknowledges that portions of this Motion to Strike as well as CPSD’s January 10, 2011 Motion to Strike may become moot.<sup>1</sup> However, given the imminence of the hearing, TracFone felt it necessary to submit this Motion to Strike and the companion Response to the CPSD Motion to Strike.

Although TracFone has obviously not seen the ruling previewed in ALJ DeAngelis’ e-mail and, for example, does not know yet if such ruling will be in the form of an ALJ’s Ruling or a Proposed or Presiding Officer Decision, it anticipates that it will avail itself of any available options to seek reconsideration of the ruling from the full Commission. Accordingly, to preserve

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<sup>1</sup> On the evening of January 19, 2011, TracFone suggested to CPSD that the two parties attempt to resolve this issue and propose a solution to the ALJ. CPSD indicated that it was willing to discuss this with TracFone in the near future.

the record in the event that the Commission reverses the ALJ's decision, TracFone requests that the portions of its testimony addressing the public utility issue be treated as an offer of proof under Rule 13.6(e). To the extent that CPSD similarly wishes to preserve its testimony, TracFone will not object to a similar Offer of Proof from CPSD. TracFone additionally suggests that the motions to strike regarding the testimony on the public utility issue should be held in abeyance in the event the ALJ Ruling is modified such that a hearing will be held in the future on the public utility issue.

## **II. BACKGROUND**

In the Amended Scoping Memo issued September 30, 2010, both sides of this proceeding were provided with an opportunity to present testimony in advance of the hearing scheduled to commence on February 1, 2011.<sup>2</sup> On October 8, 2010, CPSD submitted one page of testimony from Ms. Tan Walsh in which she incorporated the Staff Report dated December 17, 2009, her Declaration in Support of Motion of CPSD for Summary Adjudication dated September 16, 2010, and Attachments A-X to her Declaration. In her Opening Testimony (at p. 1), Ms. Tan-Walsh indicated that the Staff Report, the Declaration and all of the respective attachments "constitute the substance of [her] testimony."

On November 18, 2010, TracFone submitted the Prepared Testimony of Mr. F.J. Pollak, the President and CEO of TracFone and of Mr. Richard Salzman, the Executive Vice President and General Counsel of TracFone, along with numerous attachments.

Although the Amended Scoping Memo provided CPSD with an opportunity to file Reply Testimony on December 9, 2010, it declined to do so.<sup>3</sup> Instead, CPSD filed its lengthy Reply in

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<sup>2</sup> Assigned Commissioner's Amended Scoping Memo and Ruling, p. 6.

<sup>3</sup> *Id.*

Support of its Motion for Summary Adjudication of the Duty Issue and an accompanying Declaration of Ms. Tan-Walsh.<sup>4</sup> On January 10, 2011, almost two months after TracFone's testimony was submitted, CPSD filed its Motion to Strike. In the Motion to Strike, CPSD argued that large portions of the testimony of Messrs. Pollak and Salzman should be stricken. Concurrent with this Motion, TracFone is filing its Response to the CPSD Motion to Strike demonstrating that the Motion to Strike should be denied in its entirety.

### **III. ARGUMENT**

#### **A. Using the "CPSD Standard" Promoted in its January 11, 2011 Motion to Strike, Most of the Tan-Walsh Testimony Should Also Be Stricken**

As a general rule, TracFone believes that the ALJ and Commission are well-served by full testimonial presentations from both parties to this proceeding. Prior to the CPSD Motion to Strike the TracFone testimony, TracFone considered, but decided against, submitting a motion to strike portions of Ms. Tan-Walsh's testimony. TracFone made this decision even though Ms. Tan-Walsh's testimony: includes legal conclusions; addresses irrelevant topics and statements; discusses topics on which CPSD has refused to provide discovery responses to TracFone; and discusses and interprets statements made by Commission staff members and by TracFone. TracFone recognized that, unlike a jury trial, the ALJ and the Commission are well-equipped to consider the testimony and to question analyses and conclusions drawn from the facts.

CPSD's January 10, 2011 Motion to Strike, however, necessitates that TracFone modify its stance on the admissibility of CPSD's testimony. In that Motion, CPSD took a very aggressive approach and moved to strike large portions of the testimony presented by TracFone on one or more of the following grounds:

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<sup>4</sup> CPSD did not submit the December 9, 2010 Tan-Walsh Declaration as Testimony. If CPSD attempts to enter this Declaration into the record, TracFone will object.

1. The testimony draws legal conclusions;
2. The testimony is irrelevant; and
3. The testimony should be stricken as an equitable remedy because TracFone objected to a discovery request.

As discussed in the concurrent response, CPSD's motion primarily consists of a chart in which it identifies the portion of the testimony it seeks to strike and identifies its generic objection, *e.g.*, a legal conclusion, and a very brief discussion of legal principles alleging supporting its position. TracFone believes that CPSD's motion has no merit and should be denied. If CPSD's motion is granted, TracFone's testimony will be significantly altered impeding TracFone's ability to defend itself from the charges made against it by the Communications Division and CPSD.

Ironically, CPSD's testimony suffers from the same "flaws" that CPSD alleges regarding TracFone's testimony. For example, CPSD's testimony is replete with statements that, if made by TracFone, would be deemed "legal conclusions" by CPSD. Such statements included Staff's determination of TracFone's public utility status,<sup>5</sup> Staff's declaration regarding the meaning of GO 153,<sup>6</sup> and its characterization of a Walmart receipt (Tan-Walsh Declaration, Attachment X) as a both a "bill and receipt."<sup>7</sup> Similarly, while CPSD would strike references to other prepaid service providers' practices in TracFone's testimony as irrelevant, Ms. Tan-Walsh makes blanket statements without any supporting documentation that some such providers in fact do collect and remit.<sup>8</sup> Further, although CPSD would preclude testimony on areas where TracFone objected to discovery, Ms. Tan-Walsh submits testimony and attaches an inquiry letter to "All CMRS

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<sup>5</sup> Staff Report, p. 1 (incorporated into Tan-Walsh Testimony)

<sup>6</sup> Staff Report, p. 7, Attachment F.

<sup>7</sup> Tan-Walsh Declaration in Support of Motion of CPSD for Summary Adjudication, ¶ No. 26.

<sup>8</sup> Staff Report, p. 6.

Providers” regarding revenues reported for calculating CPUC User Fees and Public Purpose Surcharge payments<sup>9</sup> even though CPSD steadfastly refused to provide any discovery on why the Communications Division initiated that investigation and what it found as to the practices of other carriers. Last, while CPSD objects to TracFone’s witnesses summarizing documents and testifying on the meaning of documents, Ms. Tan-Walsh summarizes documents and suggests particular meaning throughout the Staff Report.<sup>10</sup> In short, CPSD has created a double standard where it can submit testimony without regard to the standard it now purports to apply to TracFone’s testimonial presentation.

This Motion to Strike seeks consistent treatment for both the CPSD and TracFone testimony. If the ALJ were to grant in whole or in part CPSD’s Motion to Strike, TracFone submits that the same standards must also be applied to CPSD’s testimony. Thus, for example, where Ms. Tan-Walsh includes legal conclusions in her testimony, such testimony must be stricken under CPSD’s own standard. As demonstrated in the chart in the next section, under such a “standard” Ms. Tan-Walsh’s testimony would be largely eliminated.

**B. The Following Portions of Ms. Tan-Walsh’s Testimony Should Be Removed from the Prepared Testimony for the Reasons Stated**

As shown in the chart below, to the extent the ALJ or Commission strikes portions of TracFone’s testimony using the “CPSD standard,” most of Ms. Tan-Walsh’s testimony should be removed for the reasons stated:

<b>Page</b>	<b>Subject of, and/or Quotation from, Respondent’s Testimony</b>	<b>Reason to Strike</b>
<b>Tan-Walsh Direct</b>		
P. 1 Q&A 4	“Q4. What is your position on the two issues set out in the ACR, namely: (1) Whether public purpose surcharges and	Legal Assertion Conclusion

<sup>9</sup> See Staff Report, p. 6 and Attachment G.

<sup>10</sup> See e.g., Staff Report pp. 6-7 regarding correspondence between TracFone and CD Staff.

Page	Subject of, and/or Quotation from, Respondent's Testimony	Reason to Strike
<b>Tan-Walsh Direct</b>		
	<p>CPUC user fees are applicable to TracFone's prepaid wireless services; and (2) if so, whether TracFone violated specific laws, rules, orders or directions of the Commission in failing to collect and remit such surcharges and CPUC user fees applicable to its prepaid wireless services?"</p> <p>"A4. CPSD's position is that those are entirely legal issues that can be decided on the basis of undisputed facts. See Motion for Summary Adjudication."</p>	(hereinafter "Legal Conclusion")
P. 1 Q&A 5	<p>"Q5. What is your position about the ACR [(Amended Scoping Memo and Ruling)] issue (3) as to whether, if found in violation, TracFone should be subject to penalties pursuant to the provisions of Public Utilities Code §§ 2100, et seq. for failure to pay PPP surcharges and CPUC user fees on its prepaid wireless services."</p> <p>"A5. CPSD intends (and reserves the right) to ask for and provide further information to assist the Commission in establishing the basis for interest and penalties, and to better determine the exact amounts owed by TracFone (phase two, as identified in ACR).</p>	<p>Irrelevant to this phase of the proceeding.</p> <p>Legal Conclusion regarding Public Utility Codes referenced and whether TracFone is in violation of such codes.</p>
Staff Report ("SR"), p. 1.	All but the last sentence of Section A, " <u>CASE SUMMARY.</u> "	Legal Conclusion.
SR, p. 2.	"On July 18, 1997, the CPUC's Telecommunications Division granted TracFone's predecessor, Topp Telecom, Inc., a Wireless Registration Identification, and the corporate utility number U-4231-C."	Legal Conclusion as to the meaning of the document. Document speaks for itself.
SR, pp. 2-3 through fn 7.	Description of América Telecom, S.A.B. de C.V. and selected quotes from its Form 20-F filed with the SEC.	<p>Irrelevant regarding information concerning América Telecom, S.A.B. de C.V. América Telecom, S.A.B. de C.V. is not a party to this or to any other Commission proceeding</p> <p>Legal Conclusion</p>

Page	Subject of, and/or Quotation from, Respondent's Testimony	Reason to Strike
<b>Tan-Walsh Direct</b>		
		<p>regarding meaning of Form 20-F.</p> <p>Document speaks for itself, including text of fn. 5.</p>
SR, p. 3	<p>“In its July 18, 1997 letter confirming the registration of TracFone’s predecessor, Topp Telecom, Inc., the CPUC reminded Topp Telecom that, as a “newly registered cellular carrier,” it was required to collect surcharges from “all end users” to support specified public purpose funds, and comply with other laws relating to telephone service offered in California.<sup>8</sup>”</p>	<p>Legal Conclusion regarding the meaning of the letter. Document speaks for itself.</p>
SR, p. 3	<p>“In 2003, TracFone informed a Telecommunications Division staff person that TracFone “does not render any ‘billings’” which would be reportable to the CPUC, implying (TracFone now contends) that TracFone no longer considered itself obligated to collect and remit public purpose surcharges and user fees.<sup>9</sup>”</p>	<p>Legal Conclusion regarding the meaning of the document. Document speaks for itself.</p>
SR, pp. 3-4	<p>“Staff could not find any record of TracFone ever seeking clarification of the terms or requirements of its Wireless Registration Identification in this regard, including its obligation to pay public purpose surcharges and user fees, nor could Staff Find any record that Commission staff ever agreed with TracFone’s view.<sup>10</sup>”</p>	<p>Equity. In discovery (D.R. 1.1.7), CPSD refused to reveal specifics of Ms. Tan-Walsh’s investigation and the documents reviewed and referred to its legal brief in its Motion for Summary Adjudication as “Staff’s views.”</p>
SR, p. 4	<p>“TracFone provides its service through a “virtual network” consisting of services obtained from numerous licensed operators of wireless networks throughout the nation, and therefore falls under the category of Mobile Virtual Network Operator (“MVNO”).<sup>12</sup> TracFone obtains service from the following underlying carriers: Alltel, AT&amp;T mobility, Golden State Cellular, T-Mobile, US Cellular, and Verizon Wireless. TracFone’s arrangement with these enables it to offer service wherever any wireless providers are available.<sup>13</sup>”</p>	<p>Legal Conclusion as to the nature of TracFone’s services. Referenced documents speak for themselves.</p>
SR, p. 4 and	<p>“Customers prepay for their wireless services through</p>	<p>Legal Conclusion.</p>

Page	Subject of, and/or Quotation from, Respondent's Testimony	Reason to Strike
<b>Tan-Walsh Direct</b>		
fn. 16.	TracFone. <sup>14</sup> TracFone has its proprietary and copyrighted "software included in [the] telephone handsets" it sells to customers in California, <sup>15</sup> software that is used to manage and control the handsets and the purchase and sale of minutes of wireless service through the handset. <sup>16</sup>	Use of software on handsets is irrelevant to the question of TracFone's duty.
SR, pp. 4-5	"TracFone operation of equipment is reflected in its agreements with the underlying carriers."	Legal conclusion as to the interpretation of contracts. The documents speak for themselves.
SR, p.5	"TracFone's agreement with Verizon Wireless, for instance, requires TracFone "to own, operate and maintain at all times during this Agreement the technology platform ('Platform') that supports and monitors the TracFone Handset." <sup>17</sup> Its agreement with AT&T provides, similarly, that TracFone "must provide and maintain all Mobile Radio Unit equipment and ensure that it is technically and operationally compatible with the CMRS systems [of AT&T]," <sup>18</sup> and its agreement with T-Mobile refers to the "equipment, software, technology, <u>handsets</u> , accessories or other materials or equipment used by [TracFone's] End Users." <sup>19</sup>	Legal conclusion as to the interpretation of contracts. The documents speak for themselves.
SR, p. 5	"TracFone sells both its handsets and airtime (sometimes packaged as "monthly plans") online, <sup>20</sup> and through a variety of U.S. retail stores (Mollie Stone and Wal-Mart, for example). <sup>21</sup> TracFone describes itself as "competing" with the major U.S. wireless operators and other mobile virtual network operators." <sup>22</sup>	Legal Conclusion.
SR, p. 5	"It also appears that TracFone obtains assigned telephone number blocks, from the underlying carriers or otherwise, which numbers TracFone then bundles with its handsets to provide network access and telephone service for compensation to end users. <sup>23</sup> Its agreement with AT&T, in turn, provides that these numbers "represent a unit of access to the Facilities," and thus provide to TracFone and its End Users some fractional access to, and ability to operate or manage devices on, the network facilities." <sup>24</sup>	Irrelevant as to the assignment and bundling of telephone numbers. Assume facts not in evidence. Legal Conclusion regarding the interpretation of contracts and regarding access to, operation on or management of network facilities.

Page	Subject of, and/or Quotation from, Respondent's Testimony	Reason to Strike
<b>Tan-Walsh Direct</b>		
SR, p. 5	"Although TracFone claims not to have any "wireless telecommunications facilities," it does admit that, as of December 31, 2008, it had 594 employees. <sup>25</sup> TracFone's nationwide revenue for 2008 was \$1.5 billion. <sup>26</sup> "	Irrelevant - TracFone's nationwide operations or revenue.
SR, pp. 5-6	"A significant portion of this was California intrastate revenue, <sup>27</sup> a category of revenue on which TracFone's competitors collect and remit public purpose surcharges and user fees."	Equity. CPSD refused discovery and currently seeks to exclude any testimony by TracFone of other carriers' practices.
SR, p. 6	"On August 20, 2008, TracFone filed Advice Letter no. 1 with this Commission, to which it attached a "Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier for the Limited Purpose of Offering Lifeline and Link Up Services to Qualified Households" (Petition). A designation of Eligible Telecommunications Carrier (ETC) is a prerequisite to TracFone's receipt of federal Lifeline subsidies. Various parties lodged Comments or Protests to the Advice Letter. <sup>29</sup> "	Irrelevant – TracFone's ETC petition and status.
SR, p. 6	"Staff notified TracFone of this deficiency and requested that TracFone make payment. <sup>31</sup> "	Legal Conclusion – assumes a duty.
SR, p. 6	"A data request was then sent to all CMRS inquiring about CMRS Revenue Reporting and User Fee/Surcharge. <sup>32</sup> TracFone initially responded to the data request by asserting that it had \$0 revenues and that it was not subject to statutory revenue reporting and fee remittance requirement because it did not "bill" customers. <sup>33</sup> However, TracFone filed a supplement to its data request response and identified its total California intrastate revenues for 2006 to 2008. <sup>34</sup> "	Equity. CPSD refused discovery on the details and results of this inquiry and currently seeks to exclude any testimony by TracFone of other carriers' practices. It should not itself now be able to refer to the inquiry and TracFone's responses.
SR, p. 7	"TracFone still contended that its service was and is exempt from collection and remittance of public purpose surcharges and user fees because:" and the four following bullet points.	Legal conclusion, in particular regarding the meaning of the letter. The

Page	Subject of, and/or Quotation from, Respondent's Testimony	Reason to Strike
Tan-Walsh Direct		
		document speaks for itself.
SR, p. 7	“Staff informed TracFone that it disagreed with the company’s position because TracFone is a telephone utility providing service in California. The reasons for staff’s position are more fully set out in [Draft] Resolution T-17235.”	Legal Conclusion. Relies on a now-vacated resolution.
SR, pp. 7-8	“Although TracFone claims that it has no billed revenue in California that would be subject to surcharges and fees, staff notes that TracFone has paid into similarly constructed Federal funds. <sup>40</sup> Staff further notes that TracFone pays into these funds notwithstanding the fact that the FCC Consumer Fact webpage on Universal Service Support Mechanisms states that telephone carriers contribute to the Federal Universal Service Fund (USF) based on the “. . . percentage of amount billed to their residential and business customers for interstate and international calls.” <sup>41</sup> ”	Legal Conclusion regarding “similarly constructed.” Irrelevant as to the Federal Universal Service Fund since that fund is not established by California law and is not subject to the authority of the California Public Utilities Commission.
SR, p. 8	“California collects the following public purpose surcharges and user fees on these intrastate revenues:” and fn 44.	Legal Conclusion
SR, p. 8	“The Commission is authorized to collect penalties up to 25% on unpaid user fees. <i>See</i> P.U. Code § 405. The Commission is authorized to collect 10% interest, compounded annually, on unpaid public purpose surcharges. <i>See</i> General Order 153 Section 11.4.1 (ULTS surcharge), Decision 98-01-023 Ordering Paragraph 14(CHCF-B and CTF surcharges), and Decision 98-06-065 Ordering Paragraph 10 (CHCF–A surcharge).”	Legal Conclusion as to the meaning of Public Utilities Code, GO 153 and Decisions of the Commission. These documents speak for themselves.
SR, p. 9	“Staff notes that TracFone’s failure to pay (or “collect and remit”) extends across all the different surcharge categories and programs, as well as its user fee obligations, regardless of the individual requirements of each program.”	Legal Conclusion.
SR, Appendix A	Appendix A	Irrelevant to this phase of the proceeding.
SR, Appendix F	Sixth paragraph starting with “Regarding reporting revenues...”	Legal conclusion of C. Christiansen; Equity as to representations re

Page	Subject of, and/or Quotation from, Respondent's Testimony	Reason to Strike
<b>Tan-Walsh Direct</b>		
		other carriers given CPSD failure to provide discovery on topic or offer Christiansen as a witness; Irrelevant reference to D.06-10-066 regarding meaning of Commission decision
SR, Attachment G and Declaration Attachment G.	Letter to "All CMRS Providers" dated May 8, 2009.	Equity
SR, Attachment K and Declaration, Attachment K.1	Excerpts from América Móvil's Annual Report for 2009.	Document speaks for itself. Irrelevant. Incomplete. America Movil is not subject to the jurisdiction of the Commission and is not a party to this proceeding.
SR, Attachment L and Declaration, Attachment L.1	Excerpts from América Móvil's Form 20-F.	Document speaks for itself. Irrelevant. Incomplete. America Movil is not subject to the jurisdiction of the Commission and is not a party to this proceeding.
SR, Attachment N and Declaration, Attachment	Screenshots from <a href="http://www.TracFone.com">www.TracFone.com</a>	Incomplete and therefore misleading.

Page	Subject of, and/or Quotation from, Respondent's Testimony	Reason to Strike
<b>Tan-Walsh Direct</b>		
N.1		
SR, Attachment Q and Declaration, Attachment Q.1	Excerpts of TracFone's advice letter for ETC designation.	Irrelevant.
Declaration, no. 24 and Delcaration Attachment V.	Regarding TracFone's FCC Form 499-Q and Form 499-A. "I am informed and believe this is the form by which TracFone reports its interstate revenue to the Universal Service Administration Company (USAC) for purposes of contribution to the federal Universal Service Fund."	Irrelevant. The federal Universal Service Fund is not established pursuant to California law and is not subject to the jurisdiction of the Commission.
Declaration no. 25 and Declaration Attachment W	Regarding a one page table constructed by Ms. Tan-Walsh showing "USF Disbursement Data"	Irrelevant.
Declaration No. 26	"Attached as Attachment X is a true and correct copy of a bill and receipt for the purchase of a TracFone handset and a 60 minute Airtime Card."	Legal Conclusion.

#### IV. CONCLUSION

For the reasons stated herein, to the extent that the ALJ or Commission grants any portion of the CPSD Motion using CPSD's standard, TracFone submits that the same standard must apply to CPSD's own testimony such that the identified portions of Ms. Tan-Walsh's testimony are similarly stricken. Alternatively, if the ALJ denies CPSD's Motion and allows TracFone to present a cohesive testimonial presentation, TracFone does not pursue the relief sought here in

order that both sides may present information as they believe is necessary to set forth the evidence upon which a Commission decision can be based.

Respectfully submitted,

By: /s/ James W. McTarnaghan

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Attorneys for TracFone Wireless, Inc.

Dated: January 21, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing, MOTION OF TRACFONE WIRELESS, INC. TO STRIKE PORTIONS OF THE TESTIMONY OF CPSD WITNESS LLELA TAN-WALSH, by using the following service:

[ X ] E-mail service: sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses (see attached Service List).

[ X ] U.S. Mail service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses and to:

ALJ Regina DeAngelis  
\_\_\_\_\_

Executed this 21st day of January, 2011 at San Francisco, California.

/s/ Trina C. Morgan  
Trina C. Morgan

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