



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

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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)

**RESPONSE OF CONSUMER PROTECTION & SAFETY DIVISION (CPSD)
TO MOTION OF VERIZON WIRELESS
TO APPEAR AS *AMICUS CURIAE* AND FILE *AMICUS BRIEF***

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, the Consumer Protection and Safety Division (CPSD) hereby responds to the motion of Verizon Wireless Inc (Verizon) for leave to appear as *amicus curiae* and file an *amicus* brief.

CPSD opposes this motion. Contrary to Verizon's assertion, Verizon's participation will have an impact on the Commission's ability to timely resolve this investigation.¹ The above-referenced Investigation has already been pending for over a year. Verizon's Petition 09-12-018 on broader surcharge issues has been used during that

¹ See Verizon's Motion, at 4.

time as an occasion for delay of this Investigation.² That Petition was denied, so now Verizon seeks to enter this proceeding, disguised in *amicus* clothing.

Verizon's presence in this proceeding will prejudice the parties, at least CPSD, in that CPSD will have to prepare two cases, if Verizon is allowed to join the fray. Verizon can always participate by providing comments or an amicus brief relating to any Proposed Decision herein, and CPSD would have no objection to its participation in that manner. Verizon's participation now, however, would further slow down an already delayed proceeding. Verizon's motion should be denied, or held in abeyance until a Proposed Decision issues in this case.

If Verizon's motion is not denied or held in abeyance, CPSD requests that it (CPSD) be afforded at least two weeks from any ruling, and preferably longer, to prepare a response to Verizon's substantive argument.

Respectfully submitted,

/s/ CHRISTOPHER WITTEMAN

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December 7, 2010

² See, e.g., TracFone's "Supplemental Motion for Stay," filed May 14, 2010, at pages 2, 3, *passim* (the Supplemental Motion references Verizon's Petition on every page).

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **RESPONSE OF CONSUMER PROTECTION & SAFETY DIVISION (CPSD) TO MOTION OF VERIZON WIRELESS TO APPEAR AS *AMICUS CURIA* AND FILE *AMICUS BRIEF*** to the official service list in **I.09-12-016** by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

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.

Executed on December 7, 2010 at San Francisco, California.

/s/ NANCY SALYER

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