

Decision _____

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. (U4231C) 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.

Investigation 09-12-016
(Filed December 17, 2009)

ORDER EXTENDING STATUTORY DEADLINE**Summary**

This decision extends the statutory deadline in this proceeding to February 19, 2014.

Background

Pub. Util. Code § 1701.2(d)¹ provides that adjudicatory matters, such as this proceeding, shall be resolved within 12 months after they are initiated, unless the Commission makes findings why that deadline cannot be met and issues an order extending the 12-month deadline. Today's decision extends the statutory deadline until February 19, 2014.

¹ All subsequent code references are to the Public Utilities Code unless otherwise indicated.

This proceeding was filed on December 17, 2009. Delays occurred in processing this docket due to uncertainties caused by a pending application for rehearing by TracFone of Resolution T-17235 and the subsequent amendment of this Investigation by Decision (D.) 10-05-021. To accommodate these delays, the statutory deadline was extended for 12 months, until December 17, 2011, by an Assigned Commissioner's Scoping Memo dated September 30, 2010.

This case has been divided into two phases.

A Presiding Officer's Decision (POD) on Phase 1 was issued on November 18, 2011. However, because it was anticipated that the case would not be resolved before December 17, 2011, the Commission issued D.11-12-042 and D.12-11-039 extending the statutory deadline to December 17, 2012 and August 19, 2013, respectively.

The Phase 1 decision was issued on February 24, 2012. Phase 2 of the proceeding addresses similarly complex issues. Prehearing conferences were held on July 3, 2012 and September 18, 2012. The procedural schedule for Phase 2 was set to allow sufficient time for each party to prepare and present its case. Testimony was scheduled to be filed in September and November 2012, with evidentiary hearings scheduled for December 2012.

The POD will be issued in mid-July 2013, and interested parties may appeal the decision within 30 days. The Commission may itself initiate a review of the POD. Therefore, it is necessary to extend the statutory deadline, until February 19, 2014, in the event that parties appeal the POD or the Commission requests review of the POD.

Waiver of Comments on Proposed Decision

Under Rule 14.6(c)(4) of the Rules of Practice and Procedure, the Commission may waive the otherwise applicable 30-day period for public review and comment on a decision that extends the 12-month deadline set forth in § 1701.2(d). Under the circumstances of this case, it is appropriate to waive the 30-day period for public review and comment.

Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Jeanne M. McKinney is the assigned Administrative Law Judge and Presiding Officer in this proceeding.

Findings of Fact

1. The Commission issued this Investigation on December 17, 2009.
2. The assigned Commissioner extended the statutory deadline applicable to this proceeding on September 30, 2010, for a 12-month period of time, until December 17, 2011.
3. The Commission issued D.11-12-042 and D.12-11-039 extending the statutory deadline to December 17, 2012 and August 19, 2013, respectively.
4. An additional extension of time until February 19, 2014 is needed to continue to resolve this Investigation and to allow time should the parties appeal the POD or the Commission requests review of the POD.

Conclusion of Law

It is reasonable to extend the statutory deadline for an additional six months, until February 19, 2014, to allow for resolution of this proceeding as it will not be possible to resolve this case within the period of time provided for in Pub. Util. Code § 1701.2(d) as extended by the September 30, 2010 scoping memo and further extended by D.11-12-042 and D.12-11-039.

IT IS ORDERED that the 12-month statutory deadline in Investigation 09-12-016 is extended to February 19, 2014.

This order is effective today.

Dated _____, at San Francisco, California.