

Decision 10-08-016 August 12, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TracFone Wireless, Inc. (U-4231-C)
for Rehearing of Resolution T-17235.

Application 10-01-015
(Filed January 19, 2010)

**DECISION DENYING WITHOUT PREJUDICE INTERVENOR COMPENSATION
TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL
CONTRIBUTION TO RESOLUTION T-17235**

This decision denies without prejudice The Utility Reform Network's request for intervenor compensation¹ for substantial contribution to Resolution T-17235.

1. Summary

On December 18, 2009, Resolution (Res.) T-17235 was issued denying TracFone Wireless, Inc. (TracFone's) request to be designated an Eligible Telecommunications Carrier (ETC) in California for the purposes of receiving federal Lifeline support. The resolution also determined that it is not in the public interest to designate TracFone as an ETC because it failed to collect and remit, and refuses to collect and remit, public purpose program surcharges and user fees. Res. T-17235 rejected TracFone's contention that it did not have to collect such fees because it was not a public utility. In addition, Res. T-17235 found that TracFone violated the state and federal laws, and Commission orders. Thus, the resolution ordered the Communications Division (CD) to prepare an

¹ Filed on February 16, 2009 in Application (A.) 10-01-015.

Order Instituting Investigation (OII) and Order to Show Cause (OSC) as to why TracFone should not be ordered to collect and remit all alleged outstanding user fees and public purpose surcharges.

TracFone timely applied for a rehearing of Res. T-17235 in A.10-01-015. On May 6, 2010, the Commission issued Decision (D.) 10-05-021 which ruled that because the matters raised by TracFone's Advice Letter (AL) and Res. T-17235 are controversial, the Commission found good cause to grant the rehearing of Res. T-17235, and to deny the AL, without prejudice, pursuant to General Order 96-B. Due to the pending Investigation (I.) 09-12-016, the Commission found it unnecessary to conduct a hearing in A.0-01-015. Instead, the Commission modified I.09-12-016 to include the allegations made in Res. T-17235. As a result, D.10-05-021 vacated Res. T-17235 and granted a rehearing of Res. 17235.

The Utility Reform Network (TURN) filed its request for intervenor compensation on February 16, 2009. In its claim, TURN requests \$16,162.50 for substantial contribution to Res. T-17235. At this time, we deny TURN's claim without prejudice because Res. T-17235 was vacated by D.10-05-021.

Although we are denying this request in light of the fact that Res. T-17235 was vacated by D.10-05-021, we clarify that TURN may choose to file a compensation request in I.09-12-016 if it intends to claim substantial contribution leading to either the opening of I.09-12-016 or to the issuance of the final decision in this matter.

2. Comments on Proposed Decision

In intervenor compensation matters, Rule 14.6(c)(6) provides that we may reduce or waive the otherwise applicable 30-day period during which parties may file comments and reply comments on a proposed decision. We decline to

reduce or waive the comment period here and allowed the full 30-day comment period. No reply comments were filed.

3. Assignment of Proceeding

This application for rehearing was not assigned to a Commissioner or Administrative Law Judge.

4. Finding of Fact

1. D.10-05-021 vacated Resolution T-17235.
2. D.10-05-021 modified I.09-12-016 to include the allegations made in Resolution T-17235.

5. Conclusion of Law

Because D.10-05-021 deferred to I.09-12-016, the issues for which TURN claims to have made a substantial contribution on in A.10-01-015, TURN's compensation request for substantial contribution to Res. T-17235 should be denied without prejudice.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network (TURN's) compensation request for substantial contribution to Resolution T-17235 in Application (A.) 10-01-015 is denied without prejudice at this time. TURN may choose to file a compensation request in A.09-12-016 if it intends to claim substantial contribution leading to either the opening of Investigation 09-12-016 or to the issuance of the final decision in this matter.

2. Application 10-01-015 is closed.

This order is effective today.

Dated August 12, 2010, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

TIMOTHY ALAN SIMON

NANCY E. RYAN

Commissioners

