

January 8, 2016

**VIA ELECTRONIC FILING**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Docket No. WC 11-42 - Emergency Petition for Declaratory Ruling  
Notice of Withdrawal**

Dear Ms. Dortch:

On October 23, 2014, TracFone Wireless, Inc., by undersigned counsel, filed with the Commission an Emergency Petition for Declaratory Ruling in the above-captioned matter. That emergency petition was supplemented by a Petition for Rulemaking on March 13, 2015 and by a Second Supplement to Emergency Petition for Declaratory Ruling and, in the Alternative, Petition for Rulemaking, filed on May 12, 2015.

By this letter, TracFone hereby notifies the Commission that it is withdrawing its emergency petition and supplements thereto as of today. The applicability of Indiana's 911 fee to Lifeline service such as those provided by TracFone and others, is before the United States District Court for the Southern District of Indiana in two separate cases (Virgin Mobile USA, L.P. v. State of Indiana and Indiana Statewide 911 Board, No. 1:15-cv 1105 SEB-DKL, and Indiana Statewide 911 Board v. Virgin Mobile USA, L.P. et al., No. 1:15-cv-1376-WTL-TAB). TracFone is a named defendant in the latter case. Questions regarding the constitutionality of Indiana's 911 fee law as applicable to Lifeline service and whether Indiana's 911 fee statutes are even applicable to Lifeline services are before the court in those cases. TracFone continues to believe that state taxation of federally-funded Lifeline service where the effect of such taxation is to reduce the Lifeline benefit received by enrolled Lifeline households below the benefit level mandated by federal regulation is unlawful. However, issues regarding the lawfulness of Indiana's 911 tax on Lifeline service should be adjudicated by the federal district court in the aforementioned cases.

Accordingly, TracFone hereby withdraws its Emergency Petition for Declaratory Ruling and supplements thereto.

Sincerely,



Mitchell F. Brecher  
*Counsel to TracFone Wireless, Inc.*

Cc: Mr. Matthew DelNero  
Mr. Ryan Palmer  
Mr. Trent Harkrader  
Mr. David Furth