BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Revocation of the Eligible Telecommunications Carrier Designation of Total Call Mobile, Inc.	)))	**File No. RC-2016-**

MOTION FOR PROVISIONAL REVOCATION OF THE ETC DESIGNATION OF TOTAL CALL MOBILE, INC. AND REQUEST FOR ORDER TO SHOW CAUSE WHY THE DESIGNATION SHOULD NOT BE PERMANENTLY REVOKED

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and for its Motion, states as follows:

1. On May 11, 2013, Total Call Mobile, Inc. was designated as an Eligible Telecommunications Carrier ("ETC") in RA-2013-0348. The designation was limited to the receipt of support from the federal Universal Service Fund ("USF") to assist low income customers. That designation remains in effect.

2. On April 7, 2016, the Federal Communications Commission issued a Notice of Apparent Liability for Forfeiture and Order (FCC 16-44), which contained the following assertions:

> a. In 2013, 2014, 2015, and 2016, Total Call Mobile, Inc. (TCM) received millions of dollars in improper reimbursements from the Universal Service Fund (USF or Fund) for duplicate and ineligible consumers that were apparently enrolled in violation of the Commission's Rules. Disturbingly, TCM employees repeatedly and explicitly told TCM management that the manner in which certain TCM sales agents were enrolling ineligible consumers constituted fraud. Despite these warnings, TCM proceeded to request and receive reimbursements from the Fund for these ineligible consumers that were specifically identified by TCM employees. Based upon the findings and recommendations of the Enforcement Bureau (Bureau) after an extensive and comprehensive investigation (the Investigation), we propose a forfeiture penalty of $51,070,322. The forfeiture penalty we propose here reflects the seriousness, duration, and scope of TCM's multiple apparent violations. [¶ 1]

b. *Lifeline Service*. The Lifeline program is part of the USF and helps qualifying consumers obtain the opportunities and security that phone service brings, including being able to connect to jobs, family members, and emergency services. Lifeline service is provided by Eligible Telecommunications Carriers (ETCs) designated pursuant to the Communications Act of 1934, as amended (Act). An ETC may seek and receive reimbursement from the USF for revenues it forgoes in providing the discounted services to eligible consumers in accordance with the Rules. Section 54.403(a) of the Commission's Rules specifies that an ETC may receive $9.25 per month for each qualifying low-income consumer receiving Lifeline service, and up to an additional $25 per month if the qualifying low-income consumer resides on Tribal lands. ETCs are required to pass a discount equal to the reimbursement amount along to eligible low-income consumers. [¶ 7]

c. The Commission's Rules prohibit an ETC from seeking reimbursement for providing Lifeline service to a consumer unless the ETC has confirmed the consumer's eligibility. In accordance with Section 54.410, before an ETC may seek reimbursement, it must receive a certification of eligibility from the prospective consumer that demonstrates that the consumer meets the income-based or program-based eligibility criteria for receiving Lifeline service, and that the consumer is not already receiving Lifeline service. [¶ 9]

d. Section 54.410(a) of the Commission's Rules further requires ETCs to "implement policies and procedures for ensuring that their Lifeline consumers are eligible to receive Lifeline services." As explained above, such eligibility requires that a consumer seeking Lifeline service is not already receiving Lifeline service. This obligation therefore requires, at a minimum, that an ETC search its own internal records to ensure that it does not provide duplicate Lifeline service to any consumer (an "intra-company duplicate"). Furthermore, ETCs are required to query the National Lifeline Accountability Database (NLAD) to determine whether a prospective consumer is currently receiving Lifeline service from another ETC, and whether anyone else living at the prospective consumer's residential address is currently receiving Lifeline service. If the NLAD indicates that a prospective consumer is currently receiving Lifeline service, the ETC must not seek or receive Lifeline reimbursement for that consumer. The NLAD is administered by the Universal Service Administrative Company (USAC). [¶ 10]

e. The evidence shows that TCM sales agents apparently enrolled duplicate and ineligible Lifeline consumers on a large scale. USAC first identified duplicates in November 2014 when it reviewed TCM's consumer lists and notified TCM that it had identified 32,498 intra-company duplicate consumers, spanning thirteen states, over a period of approximately two

> years. In a limited response to the First TCM Subpoena, TCM produced an internal spreadsheet concerning these duplicate consumers (TCM Duplicate Spreadsheet), which indicates that the 32,498 intra-company duplicates were enrolled by over 800 TCM sales agents. Despite acknowledging reimbursement for the vast majority of the 32,498 duplicate entries, TCM claimed that it did not seek Lifeline reimbursement for [redacted] of the entries. TCM also produced internal company consumer lists to support its Form 497 filings for January 2014 through October 2014. A review of the TCM Duplicate Spreadsheet revealed which TCM sales agents processed the enrollment applications for each duplicate consumer identified by USAC. [¶ 17] [footnotes omitted]

3. In Paragraph 89 of the FCC's Notice and Order, it noted that it sought a penalty for each state where USAC found duplicates, including Arizona, Hawaii, Michigan, Louisiana, Ohio, Kansas, Missouri, Iowa, Colorado, Utah, Washington State, Nevada, and Wisconsin. [emphasis added]

4. 4 CSR 240-31.130(4)(A) provides that all ETCs shall comply with all requirements of 47 CFR 54 (the federal regulations concerning Universal Service).

5. 4 CSR 240-31.130(B) provides that formal action to address ETC compliance issues may be initiated by a motion. The commission may issue an order directing an ETC to show cause why corrective action should not be taken against it. During the course of the investigation, the commission may recommend provisional suspension of federal funding to the carrier. If the carrier is ultimately cleared of all compliance issues the commission may recommend restoring federal funding to which the ETC was entitled.

6. The provisional suspension presumes both the issuance of a show cause whereby the Company can raise any defenses it may have and the investigation of the matter by the Staff to provide the Commission with sufficient evidence to permanently revoke the ETC designation.

WHEREFORE, the Staff moves that the Commission will recommend to the FCC and USAC that Total Call Mobile, Inc.'s funding be provisionally suspended as described above and requests that the Commission issue a Show Cause Order as to why Total Call Mobile, Inc.'s ETC designation should not be permanently revoked.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 14th day of April, 2016.