STATE OF MISSOURI PUBLIC SERVICE COMMISSION

At a session of the Public Service

Commission held at its office in Jefferson City on the 17th day of November, 2016.

In the Matter of the Revocation of the
Eligible Telecommunications Carrier Designation of Total Call Mobile, Inc.

Commission held at its office in Jefferson City on the 17th day of November, 2016.

)
File No. RC-2016-0278

ORDER ACKNOWLEDGING DISMISSAL AND CONFIRMING RELINQUISHMENT OF DESIGNATION

Issue Date: November 17, 2016 Effective Date: November 30, 2016

The Commission's staff (Staff") initiated this case¹ seeking to rescind² the eligible telecommunications carrier ("ETC") designation³ of Total Call Mobile, Inc., ("TCM") for violation of state and federal regulations.⁴ Staff and TCM ("signatories") filed a *Stipulation of Dismissal*⁵ ("stipulation"). The Commission received no objection within the time allowed by regulation,⁶ so the stipulation is deemed unanimous.⁷ No separately stated findings of

³ EFIS File No. RA-2013-0348, <u>In the Matter of the Application of Total Call Mobile, Inc. for Limited Designation as an Eligible Telecommunications Carrier</u>, Item No. 7 (May 1, 2013) Order Granting Application for Designation as an Eligible Telecommunications Carrier. All other references to EFIS are to items in this File No. RC-2016-0278.

¹ Electronic Filing Information System ("EFIS") No. 1 (April 14, 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.*

² 4 CSR 240-31.130(4)(C)2.

⁴ 4 CSR 240-31.130(4)(A). Designation qualifies TCM to participate in the Lifeline Service program, which provides reimbursement from the Universal Service Fund for telecommunications services. The complaint alleges unlawful procurement of reimbursement.

⁵ EFIS No. 26 (October 25, 2016).

⁶ The Office of the Public Counsel is a party to this case, 4 CSR 240.010(10), but has opted to enter no appearance in this action.

⁷ 4 CSR 240-2.115(B) and (C)...

fact are necessary when a stipulation and agreement disposes of the case. ⁸ The stipulation includes two requests for relief.

First, the stipulation requests an order confirming TCM's relinquishment of its designation ("relinquishment") as of 12:00 a.m., November 30, 2016. TCM can only relinquish its designation if another ETC serves TCM's area, ⁹ and the Commission must first "ensure that all customers served by [TCM] will continue to be served" ¹⁰ by another ETC. Staff filed a supplement ¹¹ to the stipulation stating that many other ETCs serve TCM's area and will continue to serve TCM's customers, so the Commission will confirm the relinquishment. ¹²

Second, the stipulation requests deferral of Staff's dismissal until the Commission confirms the relinquishment. The Commission's regulation governing dismissal provides that a notice of dismissal dismisses the case upon filing, ¹³ so a delay in dismissal constitutes a variance from that regulation, which the Commission may grant on a showing of good cause. ¹⁴ Good cause connotes reasonableness and good faith. ¹⁵ Those qualities

⁸ Section 536.090, RSMo 2000

⁹ 47 USC 214(e)(4); 47 C.F.R. 54.205(a).

¹⁰ 47 USC 214(e)(4); 47 C.F.R. 54.205(b).

¹¹ EFIS No. 28 (November 9, 2016) Staff Response to Commission Order.

¹² The signatories stipulate that TCM's relinquishment is "an independent business decision and does thereby concede or admit to any of the allegation" in the complaint.

¹³ If the Commission has received no prepared or live testimony, 4 CSR 240-2.116(1), which is the posture of this case.

¹⁴ 4 CSR 240-2.060(4)(B).

¹⁵ Morgan v. Gaeth, 273 S.W.3d 55, 59 (Mo. App., W.D. 2008).

appear in the signatories' resolution of this action. Therefore, the Commission confirms relinquishment and this action will be dismissed on November 30.

THE COMMISSION ORDERS THAT:

- The relinquishment of designation as an eligible telecommunications carrier by
 Total Call Mobile, Inc. is confirmed.
 - 2. The complaint is dismissed.
 - 3. This order shall be effective on November 30, 2016.

BY THE COMMISSION

Morris I Wooduff



Morris L. Woodruff Secretary

Hall, Chm., Stoll, Kenney, Rupp, and Coleman, CC., concur.

Daniel Jordan, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 17th day of November 2016.

SION OF THE OF T

Morris L. Woodruff

Secretary

MISSOURI PUBLIC SERVICE COMMISSION November 17, 2016

File/Case No. RC-2016-0278

Missouri Public Service Commission

Staff Counsel Department 200 Madison Street, Suite 800 P.O. Box 360 Jefferson City, MO 65102 staffcounselservice@psc.mo.gov

Office of the Public Counsel

James Owen 200 Madison Street, Suite 650 P.O. Box 2230 Jefferson City, MO 65102 opcservice@ded.mo.gov

Missouri Public Service Commission

Cully Dale 200 Madison Street, Suite 800 P.O. Box 360 Jefferson City, MO 65102 cully.dale@psc.mo.gov

orris I Wooduff

Total Call Mobile, Inc.

Carl J Lumley 130 S. Bemiston, Ste. 200 St. Louis, MO 63105 clumley@chgolaw.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

Morris L. Woodruff Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.