

At a session of the Public Service Commission held at its office in Jefferson City on the 17<sup>th</sup> day of November, 2016.

## ORDER ACKNOWLEDGING DISMISSAL AND CONFIRMING RELINQUISHMENT OF DESIGNATION

Effective Date: November 30, 2016

fact are necessary when a stipulation and agreement disposes of the case.<sup>8</sup> 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,<sup>9</sup> and the Commission must first "ensure that all customers served by [TCM] will continue to be served"<sup>10</sup> by another ETC. Staff filed a supplement<sup>11</sup> 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.<sup>12</sup>

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,<sup>13</sup> so a delay in dismissal constitutes a variance from that regulation, which the Commission may grant on a showing of good cause.<sup>14</sup> Good cause connotes reasonableness and good faith.<sup>15</sup> Those qualities

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<sup>8</sup> Section 536.090, RSMo 2000

<sup>9</sup> 47 USC 214(e)(4); 47 C.F.R. 54.205(a).

<sup>10</sup> 47 USC 214(e)(4); 47 C.F.R. 54.205(b).

<sup>11</sup> EFIS No. 28 (November 9, 2016) *Staff Response to Commission Order*.

<sup>12</sup> 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.

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

<sup>14</sup> 4 CSR 240-2.060(4)(B).

<sup>15</sup> 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:**

1. 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**



A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

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

Daniel Jordan, Senior Regulatory Law Judge

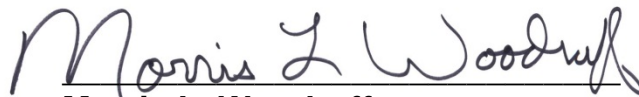
**STATE OF MISSOURI**

**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 17<sup>th</sup> day of November 2016.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**November 17, 2016**

**File/Case No. RC-2016-0278**

**Missouri Public Service  
Commission**

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**Total Call Mobile, Inc.**

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

***Sincerely,***

A handwritten signature in dark ink, reading "Morris L. Woodruff". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

**Morris L. Woodruff  
Secretary**

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