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NEW APPLICATION

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January 11, 2017

Arizona Corporation Commission

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1200 West Washington Street
Phoenix, AZ 85007

T-20664A-17-0013

Re: TracFone Wireless, Inc., Docket No. T-20664A- 16-___

Dear Sir/Madam:

Enclosed please find an original and thirteen (13) copies of TracFone Wireless, Inc.'s Petition to Expand Eligible Telecommunications Carrier Designation to Include Tribal Lands. An additional copy is included to be date-stamped and returned in the enclosed envelope. If you have any questions about this submission, please contact Debra McGuire Mercer at (202) 331-3194 or mercerdm@gtlaw.com or undersigned counsel for TracFone.

Sincerely,

Jennifer Cummins Rethemeier

Counsel for TracFone Wireless, Inc.

Enclosures

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**Before the
ARIZONA CORPORATION COMMISSION**

_____))
In the Matter of the Petition of TracFone Wireless,)
Inc. to Expand Eligible Telecommunications Carrier)
Designation in the State of Arizona to Include Tribal) Docket No. T-20664A-16-____
Lands))
_____))

**TRACFONE WIRELESS, INC.'S PETITION TO
EXPAND ELIGIBLE TELECOMMUNICATIONS CARRIER
DESIGNATION TO INCLUDE TRIBAL LANDS**

TracFone Wireless, Inc. (“TracFone”), by its attorneys, hereby petitions the Arizona Corporation Commission (“Commission”) to expand its designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended,¹ to include Tribal lands within Arizona. As explained in this Petition, TracFone will enhance its current Lifeline service offering to provide additional airtime minutes and mobile broadband data allowances to qualifying households residing on Tribal lands based upon its receipt of federal Tribal lands support. The Commission’s grant of TracFone’s Petition will serve the public interest by allowing qualifying Arizona households residing on Tribal lands to receive enhanced Lifeline offerings and benefit from increased competition in the market for wireless Lifeline service.

I. BACKGROUND

TracFone is incorporated under the laws of the State of Delaware and is headquartered at Miami, Florida. Its corporate offices are located at 9700 N.W. 112th Avenue, Miami, Florida, 33178. TracFone is a reseller of commercial mobile radio service (“CMRS”) throughout the

¹ 47 U.S.C. § 214(e)(2).

United States, including the State of Arizona. TracFone is currently the nation's leading provider of prepaid wireless telecommunications services, and the fifth largest wireless carrier overall, with more than 25 million subscribers nationwide. TracFone provides resold wireless telecommunications service consisting of services obtained from licensed operators of wireless networks. TracFone has provided CMRS service throughout the State of Arizona continuously for more than fifteen years. In Arizona, TracFone obtains service from the following underlying carriers: AT&T Wireless, T-Mobile, and Verizon Wireless. TracFone's arrangements with those providers enable it to offer services wherever any of those providers offer service in Arizona.

On March 9, 2011, the Commission issued an Order designating TracFone as an Eligible Telecommunications Carrier.² TracFone initially sought designation as an ETC for the entire state of Arizona. However, the Arizona Local Exchange Carrier Association ("ALECA"), objected to TracFone providing Lifeline service on Tribal lands because it believed that "TracFone's SafeLink offering may unfairly duplicate the similar offerings of its member companies, cause the F[ederal] USF requirements to grow to the point where its member companies' FUSF compensation is endangered, and undermine public support for the FCC's universal service program."³ Although TracFone did not agree that ALECA's concerns warranted excluding Tribal lands from its ETC designated service area, TracFone agreed that it would not attempt to provide its Lifeline service to eligible residents on Tribal lands.⁴ TracFone further agreed that it would implement certain procedures to ensure that it would not provide

² *In the Matter of the Application of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier for the Limited Purpose of Offering Lifeline and Link Up Services to Qualified Households in Arizona*, Order, Docket No. T-20664A-09-0148, March 9, 2011.

³ ALECA's Motion to Intervene, Docket No. T-20664A-09-0148, December 18, 2009, at 2.

⁴ See Order, at 13-14.

Lifeline service to any residents of Tribal lands, including (1) denying all applications for Lifeline service to ZIP Codes located within Tribal lands and (2) adding a line in its Arizona Lifeline enrollment application requesting applicants to self-certify under penalty of perjury that they do not reside in Federally-Recognized Tribal Lands.⁵ The concerns raised by ALECA in 2009 do not justify the continued exclusion of TracFone's service from Tribal lands. Designating TracFone as an ETC on Tribal lands at this time would benefit the public interest by allowing TracFone to provide enhanced Lifeline benefits to Arizona Tribal land households and introducing more robust competition in the provision of wireless Lifeline service.

II. THE COMMISSION SHOULD EXPAND TRACFONE'S ETC DESIGNATED SERVICE AREA TO INCLUDE TRIBAL LANDS.

By this Petition, TracFone asks the Commission to expand its ETC designated service area to include Tribal lands. TracFone meets the federal requirements for receipt of Tribal lands support. However, as explained above, TracFone agreed to exclude Tribal lands from its Lifeline service area in response to concerns expressed by ALECA. ALECA's concerns, as stated in its 2009 Motion to Intervene, overlooked important differences between the type of service offered by TracFone as compared to the type of service offered by ALECA's member companies, offered unsupported and conclusory allegations regarding the impact of TracFone's receipt of Lifeline tribal support on the size of the Federal USF, ignored the public interest benefits of allowing TracFone to offer its Lifeline service to residents of Tribal lands, and provide no justification for denying TracFone's Petition. Whatever basis for those objections may have existed in 2009, they are no longer appropriate in 2017 in light of changes which have occurred in the intervening years regarding Lifeline service, and the increasing importance of affording all Arizona low-income households, including those residing on Tribal lands, the

⁵ *Id.* at 14.

benefits of competitive choice in Lifeline services, including wireless service options. Moreover, the Federal Communications Commission's (FCC) 2016 decision to modernize the Lifeline program to support broadband, including mobile broadband, makes it all the more important that all low-income Arizona households, including those residing on Tribal lands, have access to affordable high speed Internet access.⁶

TracFone meets the legal requirements for designation as an ETC on Tribal lands. The Commission determined in its Order that TracFone met the federal requirements for designation as an ETC for the purpose of receiving federal Lifeline support.⁷ Given that federal Tribal lands support is a type of federal Lifeline support, TracFone has already demonstrated that it meets the requirements for designation as an ETC for purpose of receiving federal Tribal lands support.

Pursuant to the FCC's rules governing Lifeline support, Federal Tribal lands support provides ETCs with an additional \$25.00 per month per Lifeline customer above the \$9.25 support amount provided under the federal Lifeline program, for a total of \$34.25 in federal Lifeline support. As required by FCC rules, TracFone certifies that it will pass through the entire amount of Federal USF support it receives for providing Lifeline service to residents of Tribal lands by offering the most generous wireless Lifeline service ever made available to consumers in Arizona.⁸

⁶ *Lifeline and Link Up Reform and Modernization, et al (Third Report and Order, Further Report and Order, and Order on Reconsideration)*, 31 FCC Rcd 3962 (2016) (Lifeline Modernization Order").

⁷ In the Order, the Commission concluded that TracFone met the federal requirements for designation as an ETC established set forth in Section 214(e) of the Communications Act of 1934, as amended (47 U.S.C. § 214(e)) and Part 54 of the FCC's rules (*i.e.*, 47 C.F.R. §§ 54.101, 54.201 and 54.202). There are no Arizona state laws or Commission rules applicable to designation of carriers as ETCs for purposes of receiving federal Lifeline support.

⁸ See 47 C.F.R. § 54.403(a)(3).

TracFone, as a recipient of federal Lifeline support, including the additional federal Tribal lands support, would offer Arizona Lifeline customers residing on Tribal lands unlimited airtime minutes usable for all distance calling, unlimited text messaging, and 2 GB of mobile broadband data service each month. The voice portion of TracFone's Lifeline service will include unlimited texting, voicemail, caller ID, national long distance calling without toll charges, and no charges for roaming. Tribal lands customers will have the option of receiving a free Android smartphone from TracFone (which will be Wi-Fi-capable and capable of being used as a Wi-Fi hotspot)⁹ or using their own smartphone. Those Lifeline customers who choose to use their own smartphone will receive an additional 500 MB of mobile broadband data, for a total of 2.5 GB of mobile broadband data, for the first three months for which they are TracFone Lifeline customers. Commencing with the fourth month of service, new Tribal lands Lifeline customers who bring their own smartphone will receive 2 GB of mobile broadband data.

As required by the FCC's recent Lifeline Modernization Order, effective December 2, 2016, mobile providers must provide at least 500 MB of mobile broadband data to qualify for broadband federal Lifeline support.¹⁰ The FCC has not established a minimum amount of data that must be offered to receive Lifeline Tribal lands support. However, like all federal Lifeline support, the full amount of the support must be passed through to Lifeline customers.¹¹ TracFone's bundled mobile broadband data and voice Lifeline offering to residents of Tribal lands will provide Arizona Tribal subscribers with unlimited airtime minutes plus an additional 1.5 GB of mobile broadband data above the broadband data amount TracFone provides to its Arizona Lifeline subscribers who do not reside on Tribal lands. By doing so, TracFone will

⁹ See 47 C.F.R. § 54.408(f).

¹⁰ Lifeline Modernization Order; see also 47 C.F.R. § 54.408(b)(2).

¹¹ See 47 C.F.R. § 54.403(a)(3).

ensure that Arizona Tribal lands Lifeline customers receive the full benefit of the additional Tribal lands support.¹² In short, all TracFone Lifeline consumers residing on Tribal lands will receive at least 2 GB of mobile broadband data. TracFone is not aware of any comparable Lifeline program being offered to residents of Arizona tribal lands by any designated Lifeline provider. It is difficult to imagine a proposal that will do more to ensure meaningful broadband access to Tribal communities in Arizona.

TracFone's Lifeline services to residents of Tribal areas will not duplicate the offerings of ALECA's member companies, which are local exchange companies that offer a landline Lifeline service within each company's limited local calling area. Those companies impose additional charges on their Lifeline customers on Tribal lands for telephone service features, such as caller ID and call waiting. In addition, those companies' Lifeline customers are subject to toll charges for calls to locations outside of their sparsely-populated local calling areas.¹³ In contrast to those companies' Lifeline offerings, TracFone's Lifeline service is wireless and includes larger calling areas (*i.e.*, nationwide), long distance calling, text messaging, mobile broadband access to the Internet, and important calling features (*e.g.*, caller ID, call waiting, and voicemail) for no additional charge.

Expansion of TracFone's ETC designated Lifeline service area to include Arizona Tribal lands will serve the public interest because it will enable TracFone to provide enhanced Lifeline benefits to Arizona Tribal land households that are eligible for Lifeline service. As noted by the

¹² As the FCC's monthly minimum service standard increases over time (in accordance with 47 C.F.R. § 54.408(b)), TracFone plans to continue providing qualifying Arizona Tribal lands Lifeline subscribers with an additional 1.5 GB of mobile broadband data above the amount of data that TracFone provides to Arizona Lifeline customers who do not reside on Tribal lands.

¹³ For example, Gila River Telecommunications, Inc. advises its customers who receive enhanced Lifeline for Tribal lands that "[t]oll charges of 5¢ per minute apply if calling outside of Gila River when you choose Gila River Long Distance as your carrier." See <http://www.gilarivertel.com/residential/discounted-services>.

FCC, “Tribal lands historically have had less access to telecommunications services than any other segment of the population.”¹⁴ Consumers who live on remote and underserved Tribal lands have difficulty in accessing basic services, as well as advanced telecommunications services, such as broadband services. Therefore, the availability of Lifeline support to provide Tribal lands residents services that include basic telecommunications services as well as advanced telecommunications services (*i.e.*, Internet access via broadband services) has been and continues to be especially important.¹⁵ Indeed, the FCC recently found that “the disproportionately low adoption of telecommunication services on Tribal lands, especially those in remote and underserved areas, makes clear that there is much more progress to be made in increasing penetration and adoption of Lifeline services.”¹⁶ By this application, TracFone requests the Commission’s consent to contribute to that progress.

ALECA’s previously stated concern that TracFone’s receipt of Tribal lands support will cause the Federal USF to grow to a level that could endanger ALECA member companies’ compensation from the Federal USF is unfounded. ALECA did not provide any factual basis for its assertion and none exists. As a Lifeline-only ETC, TracFone does not seek and will not accept high cost support. It will only receive Lifeline support for those consumers who enroll in its Lifeline program. Given the FCC’s one-per-household rule, any existing Lifeline customers

¹⁴ Lifeline Modernization Order, ¶ 206.

¹⁵ See *id.* (citing *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, 2016 Broadband Progress Report, 31 FCC Rcd 699, 731-32, ¶ 79 (2016) and *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12211-15, ¶¶ 1-11 (2000)).

¹⁶ Lifeline Modernization Order, ¶ 205.

captured by TracFone will result in TracFone receiving USF reimbursement but not the Lifeline consumer's prior Lifeline provider.¹⁷ Finally, both the FCC and the Universal Service Administrative Company closely monitor the size of the Federal USF and make adjustments that are necessary to ensure that the goals of all universal service programs are met. For the foregoing reasons, ALECA's eight year old concerns about the size of the Federal USF are unsupported do not justify denial of TracFone's request to expand its designated service area to include Tribal lands.

TracFone's receipt of Tribal land support will benefit low-income Tribal land residents by increasing the number of Lifeline providers allowed to use the additional federal support to offer enhanced Lifeline service to residents of Tribal lands. TracFone's ability to pass through Tribal lands support to residents of Tribal lands will provide a competitive and valuable alternative to the existing Lifeline services available to the many low-income Arizona households residing on Tribal lands and will increase the participation in Lifeline by persons residing in those areas not currently served by other ETCs. Moreover, TracFone's inclusion of unlimited voice minutes of airtime in its tribal Lifeline proposal will ensure that those Lifeline consumers who reside on Tribal lands have all the calling capacity they need to meet their telecommunications requirements.

Allowing TracFone to offer Lifeline service on Arizona Tribal lands will also serve the public interest because it will introduce more competition in the provision of wireless Lifeline service. Arizona Tribal lands Lifeline households, overwhelmingly choose wireless Lifeline service over wireline Lifeline service. As of September 2016, 28 percent of all ETCs receiving Federal USF support in Arizona and serving Tribal lands in 2016 are wireless carriers (*i.e.*, four

¹⁷ Section 54.409(c) of the FCC's rules (47 C.F.R. § 54.409(c)) limits Lifeline service to one supported service per household.

of the fourteen ETCs receiving Tribal lands support are wireless carriers). However, those wireless carriers have received 95.5 percent of the Federal USF support distributed to Arizona carriers serving Tribal lands in 2016.¹⁸ Those data demonstrate the large and growing demand by low-income Arizona households residing on Tribal lands for wireless Lifeline services.

Low-income Arizona residents would benefit from increased competition within the Lifeline wireless service market. For example, Smith Bagley Inc. (doing business as Cellular One), a wireless ETC serving tribal areas, alone receives over 67 percent of Lifeline Tribal lands support (wireline and wireless) and over 70 percent of the Lifeline Tribal lands support received by wireless ETCs in Arizona. Cellular One's Tribal lands Lifeline plan includes unlimited airtime minutes and text messaging and 500 MB of data. TracFone's Lifeline plan for residents of Tribal lands also will provide unlimited airtime minutes and text messaging, but will also include 2 GB of mobile broadband data – 1.5 GB of data more than that provided by Cellular One.¹⁹ Increased competition leads to additional consumer choices and delivery of greater value to consumers. If the Commission authorizes TracFone to expand its designated service area to include Tribal lands, then TracFone will be able to deliver enhanced service choices and greater value to qualifying Arizona households residing on Tribal lands as described in this Petition.


¹⁸ See LI05 Annual Low Income Support Claimed by State and Company January 2013 through September 2016.xlsx, available at <http://www.usac.org/about/tools/fcc/filings/2017/q1.aspx>.

¹⁹ Blue Jay Wireless and Boomerang Wireless both provide unlimited airtime minutes and text messages as part of their Tribal lands Lifeline service. Blue Jay offers 1 GB of data while Boomerang offers 750 MB of data. TracFone's proposed Lifeline service for residents of Tribal lands would provide households with 2 GB of data, which is substantially more data than that offered by Boomerang, Blue Jay and Cellular One.

CONCLUSION

Based on the foregoing, TracFone requests that the Arizona Corporation Commission promptly grant its Petition to expand its designated service area to include Tribal lands.

Respectfully submitted,


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