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AZ CORP COMMISSION  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

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TOM FORESE  
Chairman  
BOB BURNS  
Commissioner  
DOUG LITTLE  
Commissioner  
ANDY TOBIN  
Commissioner  
BOYD W. DUNN  
Commissioner

Arizona Corporation Commission

**DOCKETED**

**MAR 13 2017**

**DOCKETED BY**  
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IN THE MATTER OF THE FORMAL  
COMPLAINT OF GILA RIVER  
TELECOMMUNICATIONS, INC.  
AGAINST TRACFONE WIRELESS, INC.  
D/B/A SAFELINK WIRELESS

DOCKET NO. T-20664A-17-0021

**ANSWER AND MOTION TO DISMISS**

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TracFone Wireless, Inc. ("TracFone"), by its attorneys, hereby files this Answer to the above-captioned Formal Complaint filed by Gila River Telecommunications, Inc. ("GRTI" or "Complainant").<sup>1</sup> In addition, pursuant to A.A.C. R14-3-106.H, TracFone respectfully moves the Commission to dismiss the Complaint for the reasons set forth below.

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**ANSWER**

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1. TracFone lacks knowledge or information sufficient to form a belief about the truth of the allegations in the first sentence of paragraph 1 regarding the ownership and services provided by GRTI. The allegations in the second sentence of paragraph 1 constitute a legal conclusion to which no response is required. However, to the extent a response is required, TracFone denies the allegations in the second sentence of

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<sup>1</sup> The Complaint was filed with the Arizona Corporation Commission ("Commission") on January 26, 2017, and served on TracFone's counsel of record on January 30, 2017.

1 paragraph 1 that TracFone has engaged in the unlawful solicitation and enrollment in  
2 cellular Lifeline service within the Gila River Indian Community (“GRIC”) and to  
3 Community Tribal Members.

4 2. TracFone admits the allegations in paragraph 2 that TracFone was  
5 designated as an Eligible Telecommunications Carrier (“ETC”) by the Commission in  
6 2011 in Docket No. T-20664A-09-0148 (Decision No. 72222) and that it is not  
7 authorized to provide service on the GRIC or to enroll Tribal Members who reside on  
8 Tribal Lands.

9 3. The allegations in the first and second sentences of paragraph 3 constitute a  
10 legal conclusion to which no response is required. However, to the extent a response is  
11 required, TracFone denies the allegations in paragraph 3 and opposes the Complainant’s  
12 request for an expedited order requiring TracFone to cease and desist all new Lifeline  
13 enrollments and renewals of current enrollees in Arizona until the Commission completes  
14 a compliance audit. TracFone further denies the allegation in the second sentence of  
15 paragraph 3 that its alleged disregard of its certification warrants a Commission  
16 investigation into its overall compliance.

17 4. The allegations in paragraph 4 constitute a legal conclusion to which no  
18 response is required.

19 5. TracFone denies the allegations in the first, second, third and fourth  
20 sentences of paragraph 5 that describe the conduct of alleged TracFone representatives  
21 within the GRIC and communications with alleged TracFone representatives. TracFone  
22 admits the allegation in the fifth sentence of paragraph 5 that it does not hold a GRIC  
23 business license. TracFone further states that it has not and does not authorize any  
24 individuals to market its Lifeline service on Tribal Lands, including the GRIC, and  
25 accordingly denies the other allegations set forth in paragraph 5.

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1           6.       TracFone denies the allegations in paragraph 6 that refer to information on  
2 a Facebook page used by members of the GRIC and advertisements regarding SafeLink  
3 phones. TracFone further states that it did not authorize the placement of advertisements  
4 or other information on any Facebook pages, including any Facebook pages used by  
5 members of the GRIC, and therefore denies the allegations of paragraph 6.

6           7.       TracFone admits the allegation in the first sentence of paragraph 7 that  
7 Exhibit 3 is a copy of a marketing brochure that was filed with the Federal  
8 Communications Commission (“FCC”) on December 2, 2016. TracFone admits the  
9 allegation in the second sentence in paragraph 7 that TracFone described the brochure to  
10 the FCC as “a program brochure which describes TracFone’s Lifeline program.”  
11 TracFone admits the allegation in the third sentence of paragraph 6 that Exhibit 3 is the  
12 brochure TracFone filed with the FCC on December 2, 2016. TracFone denies the  
13 allegation in the fourth sentence of paragraph 7 about the meaning of Complainant’s  
14 placement of a red circle on the brochure. TracFone denies the allegation in the fifth  
15 sentence of paragraph 7 that the brochure attached to the Complaint as Exhibit 3 has been  
16 distributed or made available in Arizona. TracFone admits the allegation in the sixth  
17 sentence of paragraph 7 that the brochure does not state that TracFone is prohibited from  
18 providing service to anyone living on Tribal Lands. TracFone further states that the  
19 brochure has not been authorized by it for use in Arizona and that it is only used in those  
20 states where TracFone is permitted to provide Lifeline service to residents of Tribal  
21 Lands.

22           8.       TracFone admits the allegations in paragraph 8 that TracFone is certified as  
23 an ETC by the Commission pursuant to Decision No. 72222, TracFone committed that it  
24 “would not attempt to provide its SafeLink Wireless® Lifeline service to eligible residents  
25 on Tribal lands”, the Arizona Local Exchange Carrier Association (“ALECA”)  
26 intervened and opposed TracFone service on Tribal Lands, and the terms of the

1 Commission's Decision No. 72222 represent a compromise reached by TracFone and  
2 ALECA.

3 9. TracFone admits the allegations in the first sentence of paragraph 9 that the  
4 ETC certification includes requirements to deny applications for Lifeline service to ZIP  
5 Codes located within Tribal Lands and to include a self-certification of non-Tribal land  
6 residency on Arizona Lifeline enrollment applications. TracFone denies the allegations  
7 in the second sentence of paragraph that TracFone is selling Lifeline service to Tribal  
8 Members on Tribal Land and violating the terms and conditions of its ETC certification.  
9 TracFone denies the allegations in the third sentence of paragraph 9 that it is disregarding  
10 the requirements of Decision No. 72222 and the authority of the Tribal government over  
11 the provision of utility services within the Community boundary.

12 10. TracFone admits the allegations in paragraph 10 that TracFone's ETC  
13 service area excludes "Federally-Recognized Tribal Lands located within the state of  
14 Arizona" and that it has no authority to market, solicit or enroll customers who live on  
15 Tribal Lands.

16 11. TracFone admits the allegation in the first sentence of paragraph 11 that  
17 ordering paragraph 4 of Decision No. 72222 required TracFone to file a document  
18 identifying ZIP Codes located within Federally-Recognized Tribal Lands for which  
19 TracFone would not provide Lifeline service. TracFone denies the allegation in the  
20 second sentence of paragraph 11 that TracFone is intentionally and unapologetically  
21 enrolling Tribal members within Tribal ZIP Codes.

22 12. TracFone admits the allegation in the first sentence of paragraph 12 that  
23 the final ordering paragraph of Decision No. 72222 states that TracFone's ETC service  
24 area excludes "Federally-Recognized Tribal Lands located within the state of Arizona."  
25 TracFone denies the allegations in the second sentence of paragraph 12 that TracFone is

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1 marketing its Lifeline services within the GRIC and enrolling Tribal Members who live  
2 on Tribal Lands in violation of its ETC certification in Arizona.

3 13. TracFone admits the allegation in the first sentence of paragraph 13 that  
4 counsel for GRTI contacted TracFone corporate counsel Stephen Athanson on January 9,  
5 2017, but denies the allegation that TracFone has engaged in the alleged violations  
6 contained in the Complaint. TracFone admits the allegation in the second sentence of  
7 paragraph 13 that Mr. Athanson advised counsel for GRTI that TracFone was aware of  
8 the prohibition against serving Tribal Lands and would investigate the alleged violation  
9 immediately, but denies the allegation that TracFone committed any violations.  
10 TracFone denies the allegation in the third sentence of paragraph 13 that GRTI has not  
11 received information from TracFone regarding the alleged violations contained in the  
12 Complaint. TracFone denies the allegation in the fourth sentence of paragraph 13 that  
13 TracFone has no intention of ceasing enrollment efforts on Tribal Lands. TracFone  
14 further states that it is not engaging in enrollment efforts on Tribal Lands.

15 14. TracFone admits the allegation in the first sentence of paragraph 14 that it  
16 filed an application with the Commission seeking to expand its ETC service area to  
17 include Tribal Lands in Arizona, but denies the remaining allegations in the first  
18 sentence. TracFone admits the allegation in the second sentence of paragraph 14 that it  
19 does not possess a license to do business within the GRIC, but denies the allegations that  
20 it has not requested permission to serve on Tribal Lands and is violating a Commission  
21 order. TracFone denies that its application violates Tribal law or federal Tribal  
22 Engagement requirements.

23 15. TracFone admits the allegations in the first, second and third sentences of  
24 paragraph 15 that it filed a petition with the FCC on October 31, 2016 requesting  
25 designation as a Lifeline-supported Broadband Internet Access Service Provider (“LBP”)  
26 to provide service on a nationwide basis including low-income households on Tribal

1 Lands, but that the petition did not state that TracFone is prohibited from serving Tribal  
2 Lands in Arizona. TracFone further states that whether TracFone is permitted by the  
3 Commission to serve Tribal Lands is not relevant to the FCC's authority to designate  
4 TracFone as an LBP throughout the United States, including on Tribal Lands. TracFone  
5 denies the allegation in the fourth sentence of paragraph 15 that it is not cognizant of laws  
6 recognizing Tribal sovereignty. TracFone admits the allegations in the fifth and sixth  
7 sentences of paragraph 15 regarding the content of its LBP petition filed with the FCC,  
8 but denies that it was required to exclude ZIP Codes within Tribal Lands from its  
9 requested service area. The allegations in the seventh sentence of paragraph 15 constitute  
10 a legal conclusion to which no response is required. However, to the extent a response is  
11 required, TracFone denies the allegations in the seventh sentence of paragraph 15 that  
12 TracFone's failure to disclose the Arizona prohibition against service on Tribal Lands  
13 was an intentional misrepresentation of TracFone's authority.

14 16. The allegations in the first, second, and third sentences of paragraph 16  
15 constitute statements of law to which no response is required. However, to the extent a  
16 response is required, TracFone denies the allegation in the first sentence of paragraph 16  
17 that TracFone has engaged in the alleged violations. TracFone denies the allegations in  
18 the fourth and fifth sentences of paragraph 16 that describe TracFone's proposed Lifeline  
19 service to residents of Tribal Lands. TracFone lacks knowledge or information sufficient  
20 to form a belief about the truth of the allegations in the sixth sentence of paragraph 16  
21 regarding Tribal Members' awareness of the terms of Lifeline service. The allegations in  
22 the seventh sentence of paragraph 16 are statements of law to which no response is  
23 required. TracFone lacks knowledge or information sufficient to form a belief about the  
24 truth of the allegation in the eighth sentence of paragraph 16 regarding Tribal Members'  
25 ability to cancel a cell phone contract.

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1 Wireless, Inc., dba SafeLink Wireless, within the GRIC and the Community Tribal  
2 Members”<sup>2</sup> in violation of Commission Decision No. 72222, which prohibits TracFone  
3 from providing Lifeline service on “Federally-Recognized Tribal Lands located within  
4 the state of Arizona.” GRTI attempts to support its claim with the following allegations:  
5 (1) TracFone “representatives” marketed a “FreePhoneProgram” and solicited applicants  
6 for Safelink phone service within the GRIC and “it is likely that many Tribal Members  
7 have been enrolled as TracFone Lifeline customers”<sup>3</sup> and (2) SafeLink advertisements  
8 were found on the “Gila River Buy \*Sell\* Trade” Facebook Page which is a page used by  
9 Members of the Gila River Indian Community.”<sup>4</sup> These allegations do not provide  
10 sufficient facts to state a claim against TracFone.

11 First, GRTI asserts that TracFone “representatives” were soliciting applicants for  
12 Lifeline service on Tribal Lands, but does not assert that any such representatives were  
13 authorized by TracFone to solicit applicants on Tribal Lands. Second, GRTI claims that  
14 it is “likely” that Tribal Members have been enrolled as TracFone Lifeline customers, but  
15 does not point to a single resident of the GRIC who is a TracFone Lifeline customer.  
16 Such speculative statements about possible or even alleged “likely” Tribal Member  
17 enrollments is wholly insufficient to support the claim set forth in the Complaint. Third,  
18 GRTI refers to information which allegedly appeared on a Facebook page, but does not  
19 offer any proof that TracFone had any role in placing that information on the Facebook  
20 page or authorizing such placement. Indeed, the Complaint does not even allege that  
21 TracFone bears any responsibility for placement of any of the alleged postings. For these  
22 reasons, GRTI fails to allege sufficient facts to support a claim for relief and the  
23 Complaint should be dismissed on that basis.

24 \_\_\_\_\_  
25 <sup>2</sup> Complaint, ¶ 1.

26 <sup>3</sup> *Id.* ¶ 5.

<sup>4</sup> *Id.* ¶ 6.



1 Furthermore, the Commission should dismiss GRTI's Complaint because  
2 TracFone has not been and is not violating the conditions in Decision No. 72222. After  
3 receiving the Complaint, TracFone investigated the allegations regarding TracFone  
4 "representatives" soliciting Lifeline applicants on Tribal Lands within the GRIC.  
5 TracFone's counsel advised GRTI's counsel of TracFone's findings in a letter dated  
6 February 1, 2017, attached as Exhibit 1. In the February 1, 2017 letter, TracFone  
7 informed GRTI that it had not authorized an agent to solicit Lifeline customers at  
8 locations within the GRIC and that no Community residents had been enrolled in  
9 TracFone's Lifeline service. TracFone has reminded its agents in Arizona that they are  
10 not permitted to solicit Lifeline customers that reside on Tribal Lands and it is not aware  
11 of any agents soliciting customers on Tribal Lands.

12 TracFone has been and is in full compliance with the requirements set forth in  
13 Decision No. 72222 that it would not attempt to provide Lifeline service to residents on  
14 Tribal Lands and would implement procedural safeguards to ensure compliance with that  
15 condition. In Decision No. 72222, the Commission notes:

16 TracFone states it will implement the following procedures to comply with its  
17 commitment not to serve tribal residents:

18  
19 a. Exclusion by Zip Code: TracFone will program its data base  
20 to deny applications for SafeLink Wireless<sup>®</sup> Lifeline service to zip  
21 codes located within tribal lands; and

22  
23 b. Self-certification of Non-Tribal Land Residency: TracFone  
24 will include in its Arizona Lifeline enrollment application a line for  
25  
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1 applicants to self-certify under penalty of perjury that they do not  
2 reside in Federally-Recognized Tribal Lands.<sup>5</sup>

3  
4 The Commission further stated in Decision No. 72222 that “ALECA has agreed to  
5 work with TracFone to identify zip codes located within Federally-Recognized Tribal  
6 Lands for exclusion of service by TracFone.”<sup>6</sup> After working with ALECA to identify  
7 ZIP Codes within Tribal Lands, TracFone filed with the Commission a document  
8 identifying ZIP Codes located within Federally-Recognized Tribal Lands for which  
9 TracFone will not be providing service in Arizona (the “Tribal Lands ZIP Code list”) and  
10 a list all ZIP Codes TracFone will be serving in Arizona.<sup>7</sup> TracFone subsequently  
11 updated the list to remove ZIP Code 85256 from the list of ZIP Codes TracFone serves in  
12 Arizona and to add it to the list of ZIP Codes located within Federally-Recognized Tribal  
13 Lands in which TracFone does not provide service.<sup>8</sup>

14 TracFone has implemented all the safeguards described in Decision No. 72222.  
15 First, TracFone has programmed its data base so that any Lifeline application listing a  
16 ZIP Code on the Tribal Lands ZIP Code list is denied. For example, when an applicant  
17 attempts to commence the Lifeline application process through the SafeLink Wireless<sup>®</sup>  
18 website, the applicant is asked to provide his or her ZIP Code. When a ZIP Code on the  
19 Tribal Lands ZIP Code list is provided (*e.g.*, 85248), the applicant will see the following  
20 notice: “Area not Supported”.<sup>9</sup> TracFone’s system denies all applications that list a  
21 physical residence address with a ZIP Code on the Tribal Lands ZIP Code list. Indeed,

22 <sup>5</sup> Decision No. 72222, at 14.

23 <sup>6</sup> *Id.*

24 <sup>7</sup> See TracFone Wireless, Inc.’s First Supplemental Compliance Filing, Docket No. T-  
20664A-09-0148, April 13, 2011.

25 <sup>8</sup> See TracFone Wireless, Inc.’s Fifth Supplemental Compliance Filing, Docket No. T-  
20664A-09-0148, October 28, 2011.

26 <sup>9</sup> See SafeLink Wireless<sup>®</sup> enrollment pages, attached as Exhibit 2.

1 TracFone's customer data base does not include any subscribers with a ZIP code on the  
2 Tribal Lands ZIP Code list.

3       Second, TracFone's SafeLink Wireless<sup>®</sup> Lifeline application also includes a line  
4 for applicants to self-certify under penalty of perjury that they do not reside in Federally-  
5 Recognized Tribal Lands, as required by Decision No. 72222. In Section 3 of the  
6 Lifeline enrollment application used for Arizona applicants, all applicants must certify  
7 under penalty of perjury to several statements, including: "**I do not reside in Federally-**  
8 **Recognized Tribal Lands or reside in the area of a Chapter House of the Navajo**  
9 **Nation within the Western Navajo Agency.**"<sup>10</sup> All Arizona Lifeline applicants must  
10 complete this certification, as well as meet all Lifeline program requirements, to be  
11 approved to receive Lifeline-supported service.

12       GRTI's Complaint asserts an unsupported opinion that it is likely that TracFone is  
13 providing Lifeline service to residents of Tribal Lands. However, GRTI's Complaint  
14 fails to identify a single subscriber who is a resident of Tribal Lands in Arizona and who  
15 is receiving Lifeline service from TracFone. In contrast, TracFone has demonstrated that  
16 it has systems and procedures in place to block all applicants with a physical residence  
17 address with a ZIP Code on the Tribal Lands ZIP Code list and that its system is working.  
18 As such, GRTI's Complaint fails to include sufficient facts to state any claim for relief.

19       Finally, GRTI's Complaint refers to a few documents that purportedly address  
20 TracFone's alleged intent to provide Lifeline service on Tribal Lands. However, none of  
21 the documents referenced in the Complaint support GRTI's claim that TracFone is not  
22 complying with its commitment not to serve residents of Tribal Lands. Neither do they  
23 indicate that TracFone is intending to provide Lifeline service on Tribal Lands in Arizona  
24 without seeking permission from the relevant Tribal authorities. First, GRTI points to a

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26 <sup>10</sup> See SafeLink Wireless<sup>®</sup> Arizona Certification Form, attached as Exhibit 3.

1 marketing brochure that describes the availability of Lifeline service to residents of Tribal  
2 Lands.<sup>11</sup> As TracFone advised GRTI in its February 1, 2017 letter, the brochure is not  
3 used in Arizona and is only used in those states where TracFone is permitted to provide  
4 Lifeline service to residents of Tribal Lands.<sup>12</sup>

5 Second, GRTI asserts that TracFone's recently filed a petition with the  
6 Commission to expand its ETC designation to include Tribal Lands. TracFone was  
7 advised by Commission Staff that the Commission does not have authority to designate  
8 ETCs in Tribal areas that are served by Tribally owned carriers, including GRTI.  
9 Therefore, TracFone will be filing an amendment to its Petition to identify those Tribal  
10 Lands served by non-Tribally owned carriers that TracFone seeks to include within its  
11 designated service area for purposes of offering Lifeline service, and excluding from the  
12 application those Tribal areas which are served by Tribally-owned carriers, including  
13 GRTI. In a letter dated February 13, 2017, attached as Exhibit 4, TracFone advised the  
14 GRIC, as well as all other Tribal governments in Arizona, that it will be filing an  
15 amendment to limit its petition to Tribal Lands within the Commission's jurisdiction.  
16 Importantly, TracFone will not be providing nor will it be attempting to provide Lifeline  
17 service to residents of Tribal Lands unless the Commission grants TracFone's petition.

18 Third, GRTI notes that TracFone filed a LBP petition with the FCC in which it  
19 requested authority to provide Lifeline broadband service nationwide, including to all  
20 Tribal Lands. In conformance with the FCC's rules, TracFone served the GRIC with a  
21 copy of its LBP petition. TracFone will not offer Lifeline service on any Tribal Lands,  
22 including lands within the GRIC, unless the FCC grants the LBP petition and TracFone  
23 receives any required licenses and approvals from the relevant Tribal authorities,

24 \_\_\_\_\_  
25 <sup>11</sup> *Id.* ¶ 7.

26 <sup>12</sup> Arizona is one of only two states in which state commissions have prohibited TracFone  
from providing Lifeline service to residents of Tribal Lands.

1 including the GRIC.

2 **CONCLUSION**

3 Based on the foregoing, TracFone respectfully requests that the Commission  
4 dismiss the Complaint and order such other relief that the Commission deems  
5 appropriate.

6 Respectfully submitted,

7 

8 Timothy J. Berg  
9 Attorney

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19 *Counsel for TracFone Wireless, Inc.*

20 Original and 13 copies of the foregoing filed  
21 this 13th day of March, 2017 with:

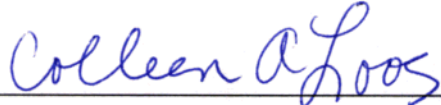
22 Docket Control  
23 Arizona Corporation Commission  
24 1200 West Washington Street  
25 Phoenix, Arizona 85007  
26

1 Copy of the foregoing hand-delivered/mailed  
2 this 13th day of March, 2017 to:

3 Timothy La Sota  
4 Arizona Corporation Commission  
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17 Attorneys for Arizona Local Exchange Carriers Association

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## DECLARATION

Javier Rosado states as follows:

1. I am employed by TracFone Wireless, Inc. ("TracFone") as Senior Officer Business Development and Government Services. My business address is 9700 NW 112 Avenue, Miami, FL 33178. I have personal knowledge of the facts set forth below.

2. I am providing this declaration in support of TracFone's Answer and Motion to Dismiss. In my capacity as Senior Office Business Development and Government Services, I am an authorized officer of TracFone and am responsible for federal Lifeline service provided by TracFone.

3. I have read TracFone's Answer and Motion to Dismiss, including all Exhibits. I confirm that all factual information contained in the Answer and Motion to Dismiss Petition is true and accurate to the best of my knowledge.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on February 17, 2017

  
Javier Rosado

# **EXHIBIT 1**



February 1, 2017

**VIA ELECTRONIC MAIL AND OVERNIGHT MAIL**

Joan S. Burke, Esq.  
Law Office of Joan S. Burke, P.C.  
1650 North First Avenue  
Phoenix, AZ 85003

**Re: Docket No. T-20664A-17-0017, Formal Complaint of Gila River Telecommunications, Inc. Against TracFone Wireless, Inc. d/b/a SafeLink Wireless**

Dear Joan:

The above-captioned formal complaint filed with the Arizona Corporation Commission (“ACC”) on behalf of your client, Gila River Telecommunications, Inc. (“GRTI”) has been forwarded to me. As you may be aware, I have been representing TracFone Wireless, Inc. (“TracFone”) in various federal and state regulatory matters, including those relating to its participation in the federal Lifeline program. Those matters included the proceeding before the ACC which resulted in the Commission’s 2011 order designating TracFone as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(2) of the Communications Act for the purpose of providing Lifeline service to low-income Arizona households. I am, of course, aware of the condition imposed by the ACC which precludes TracFone from providing Lifeline service to residents of Arizona Tribal lands.

TracFone does not dispute that it is not authorized to provide Lifeline service to residents of Tribal lands in Arizona, including the Gila River Indian Community (“GRIC” or “Community”). I am aware that you spoke with an in-house TracFone regulatory counsel, Stephen Athanson, on January 9, 2017 regarding an incident which occurred several days earlier. An independent agent had set up a sales tent at a location within the GRIC to enroll Lifeline customers. As Mr. Athanson explained to you, that agent was not authorized to solicit Lifeline customers at locations within the Community and has been instructed not to do so again. Moreover, please be assured that no Community residents were enrolled by that agent. TracFone complies with an ACC-imposed requirement that ZIP Codes covering locations within the Community are blocked. This letter constitutes formal notification to you and to your client that TracFone is not attempting to enroll GRIC residents in its Lifeline program. In addition to blocking residential addresses within the ZIP Code, all applicants are required to certify that they do not reside on tribal lands.

In the course of investigating the allegations contained in your complaint, TracFone discovered that a few persons residing in the GRIC had found a way to enroll in SafeLink Wireless<sup>®</sup>. Those persons listed their residential addresses as being outside the Community, but had their handsets delivered to Post Office boxes at the Sacaton Post Office. TracFone’s enrollment system blocks residential addresses containing ZIP Codes within the Community but does not block “ship to” addresses within the Community. As a result, 13 customers with residential addresses outside the Community were able to have their handsets shipped to the Sacaton Post Office. TracFone has identified those 13 customers and has de-enrolled those

customers from the Lifeline program. It also will be submitting revised FCC Form 497 reports with the Universal Service Administrative Company for the purpose of returning all Universal Service Fund reimbursements obtained for serving those customers. In addition, TracFone is modifying its systems so as to block delivery of handsets to addresses with ZIP Codes within the GRIC.

Your complaint references a TracFone sales brochure which describes the availability of TracFone Lifeline service to residents of tribal lands. Please be aware that this is a national brochure. Arizona is one of only two states which have prohibited TracFone from offering Lifeline service in tribal areas. This brochure is used in those other states where provision of Lifeline service to Tribal residents by TracFone is permissible.

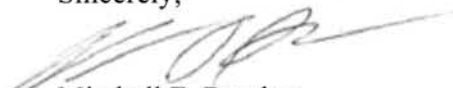
One statement in your complaint is inaccurate and warrants correction. At page 7, your complaint states that Community members are unaware that enrollment in SafeLink Wireless<sup>®</sup> will cause them to lose the "more valuable landline broadband benefit." Which Lifeline benefits are "more valuable" is for consumers to determine. However, your attention is directed to Section 54.410(d)(1) of the Federal Communications Commission's rules. That FCC rule requires Lifeline providers to make certain disclosures to all prospective customers. Among those disclosures is "(ii) **Only one Lifeline service is available per household.**" (47 C.F.R. § 54.410(d)(1)(ii)). In short, the FCC requires that all applicants for Lifeline service must be informed during the application process of the one-per-household rule. TracFone complies fully with that requirement.

Finally, you are correct that TracFone has applied to the ACC for authority to provide Lifeline service on Tribal lands. Unless the ACC approves that application, TracFone will remain prohibited from serving Tribal areas, including the GRIC. We have been informed by ACC staff that the ACC does not believe that it has jurisdiction to approve wireless ETC designations to serve Tribal areas which are served by Tribally-owned telecommunications carriers, including GRTI. Accordingly, the ACC will not designate TracFone to provide Lifeline service to Community residents.

TracFone has applied to the FCC for designation as a Lifeline Broadband Provider ("LBP"). That application listed the ZIP Codes where TracFone seeks LBP designation. The listed ZIP Codes include some within the Community. As required by the FCC's rules, TracFone provided GRIC with written notification of that application. Specifically, a copy of the LBP application was sent to Stephen Lewis, Governor, Gila River Indian Community of the Gila River Indian Reservation, simultaneously with the filing of that LBP application. Also, please assure your client that TracFone will not offer Lifeline service within the GRIC without first conferring with the Tribal government and obtaining any required licenses or permits. TracFone plans to engage with the Tribal government in the near future.

I hope that information set forth in this letter addresses your client's concerns and that you will consider withdrawing your complaint. If you have questions or would like to discuss further, please contact me at your convenience.

Sincerely,



Mitchell F. Brecher

# **EXHIBIT 2**

# FREE WIRELESS PROGRAM

LIVE CONNECTED

## Apply Now

Enter your zip code to start the process.

85248

START

### Already a customer?

Login to [My SafeLink](#)

Get More Data using your Own Smartphone

[Watch tutorial](#)



OR



Receive a free phone

SEE PLANS FULL FEATURES



Watch the SafeLink TV Commercial



Upgrade to a Smartphone

Can't complete your Application?

FIND HELP NEAR YOU

Get Unlimited Plans!

ADD UNLIMITED TALK & TEXT + DATA

\$15 TALK & TEXT

\$20 1GB DATA


NAVIGATE


LEGAL NOTES

# Area not Supported

We are currently offering service in parts of Alabama, Arizona, Arkansas, Connecticut, DC, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin

Do you wish to be notified if SafeLink Wireless becomes available in your area? Please click [here](#).

Want Unlimited Talk, Text and Web for only \$45.00 every 30 days? Shop.  [Click Here](#)

<p><b>NAVIGATE</b></p> <p><a href="#">Privacy Policy</a>   <a href="#">Terms + Conditions</a>   <a href="#">Contact Us</a>   <a href="#">Retailers</a>   <a href="#">Site Map</a>   <a href="#">Unlocking Policy</a>   <a href="#">APN Settings</a>    <a href="#">Stay Secure</a></p>	<p><b>LEGAL NOTES</b></p> <p>SafeLink Wireless* is a Lifeline supported service, a government benefit program. Only eligible consumers may enroll in Lifeline. Lifeline service is non-transferable and limited to one per household. Documentation of income or program participation may be required for enrollment. SafeLink is provided by TracFone Wireless Inc. <a href="#">More Legal</a></p>
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# **EXHIBIT 3**

Enrollment ID: \_\_\_\_\_

PromoCode: \_\_\_\_\_

## Section 1

Date: \_\_\_\_\_

Please make sure that you provide correct personal information. Your information will be validated against Public Records and any discrepancies could result in delays in your approval or rejection of service.

1. PLEASE PRINT name and physical residence address of person verifying for assistance:

_____	_____	_____	_____	_____
Legal Last Name	Legal First Name	MI	SSN (Last 4)	Birth Date (MM/DD/YYYY)
_____		_____	_____	_____
Street Address / Apt. Number (no PO BOX allowed)		City	Zip Code	
_____	_____	_____	_____	
Address Line 2	State	Contact Phone Number	Email Address	

### Mailing Address



_____	_____	_____	_____	_____
Mailing Address (PO Box allowed)	Mailing Address 2	City	Zip Code	State

Complete this part ONLY if your child or dependent is the beneficiary of the qualifying program.

_____	_____	_____	_____
First Name	Last Name	Birth Date (MM/DD/YYYY)	SSN (Last 4)

### Your Plan Features

If you qualify for SafeLink Wireless, you can receive a free SafeLink phone, or use your current one with our Bring Your Own Phone program (BYOP). Select which phone option you would prefer.

 <p><b>Bring Your Own Phone (BYOP)</b> 350 FREE monthly minutes &amp; unlimited texts. Receive 1GB/month of FREE data for the first 3 months of service and 500MB/month thereafter. Only new or returning customers who have been De-enrolled for more than 90 days will receive our 1GB promotion.</p> <p><b>You must have a T-Mobile or other Unlocked GSM compatible phone for the BYOP program.</b></p>	OR	 <p><b>Free SafeLink Smartphone</b> 350 FREE monthly minutes &amp; unlimited texts with 500MB/month of FREE data.</p>
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Unused minutes and data will not carryover from month to month for either plan. The Android robot is reproduced or modified from work created and shared by Google and used according to terms and conditions described in the Creative Commons 3.0 Attribution License.

## Section 2

I hereby certify that I participate in at least ONE of the following public assistance programs (select just ONE program):

- |   |  |
|---|--|
| <input type="checkbox"/> Medicaid   | <input type="checkbox"/> Federal Public Housing Assistance (Section 8) |
| <input type="checkbox"/> Supplemental Nutrition Assistance Program (SNAP) Food Stamps | <input type="checkbox"/> Veterans and Survivors Pension Benefit        |
| <input type="checkbox"/> Supplemental Security Income (SSI)                           |  |

You must send a COPY of any current document that proves your participation in one of the programs previously selected. All documents must have the same name and address as provided in this application.

SafeLink is a Lifeline supported service. Lifeline is a federal benefit, and only eligible subscribers may enroll. Customers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program. Lifeline is available for only one line per household. A household is defined as any individual or group of individuals who live together at the same address and share income and expenses. A household is not permitted to receive Lifeline benefits from multiple providers. Violation of the one-per-household rule constitutes a violation of FCC rules, and will result in the Customer's de-enrollment from Lifeline. Lifeline is a non-transferable benefit, and a Customer may not transfer his or her benefit to another person.

## Section 3

You MUST place a check mark (✓) next to each statement, then Sign and Date below (your application cannot be approved without these items).

I certify under penalty of perjury to each of the following:

- 1. I participate in the above designated qualifying program.
- 2. I understand that I must notify SafeLink within 30 days if I no longer participate in the qualifying program, if I or another member of my household obtains Lifeline supported service from another carrier, or, for any other reason, I no longer qualify for Lifeline support.
- 3. I understand I may be required to recertify my continued eligibility for Lifeline at any time, and failure to do so will result in termination of my Lifeline benefits.
- 4. If I change my address, I will provide my new address to SafeLink within 30 days.
- 5. I understand that my household may receive only one Lifeline supported service. My Household does not currently receive Lifeline Service OR my household currently receives Lifeline Service from another carrier and I authorize SafeLink to transfer my Lifeline benefit to SafeLink and I understand this will terminate my Lifeline benefits with my existing carrier.
- 6. The information contained in this application is true and accurate to the best of my knowledge, and I acknowledge that providing false or fraudulent information to obtain Lifeline benefits is punishable by law.
- 7. I do not reside in Federally-Recognized Tribal Lands or reside in the area of a Chapter House of the Navajo Nation within the Western Navajo Agency.
- I authorize SafeLink Wireless or its duly appointed representative to: (1) access any records required to verify my statements herein; (2) to confirm my continued eligibility for Lifeline assistance; (3) to update my address to proper mailing address format; (4) to provide my name, telephone number, and address to the Universal Service Administrative Company (USAC) (the administrator of the program) and/or its agents for the purpose of verifying that I do not receive more than one Lifeline benefit; and (5) authorize social service agency representatives to discuss with and/or provide information to SafeLink Wireless verifying my participation in benefit programs that qualify me for Lifeline assistance.

By signing below, I separately affirm and agree to each of the above statements

Printed Name \_\_\_\_\_

Date \_\_\_\_\_

Applicant Signature \_\_\_\_\_

PromoCode \_\_\_\_\_

E-Signature \_\_\_\_\_

## Referred by a Friend

Referred by a Friend

Customer's First Name \_\_\_\_\_

Customer's Last Name \_\_\_\_\_

SafeLink Phone Number \_\_\_\_\_

- Please check this box if you would like to receive pre-recorded special offers for SafeLink customers and promotional offers from TracFone at the home telephone number provided in the contact information.

## Please Return to

Mail Application: SafeLink Wireless  
PO Box 220009  
Milwaukie, OR 97269-0009

Or Fax Application: 1 (866) 902-5756  
For questions concerning Lifeline, please call SafeLink Wireless business office at 1 (800) SafeLink (723-3546)



### Lifeline Household Worksheet

Lifeline is a government program that provides a monthly discount on home or mobile telephone services. Only ONE Lifeline discount is allowed per household. Members of a household are not permitted to receive Lifeline service from multiple telephone companies.

Your **household** is everyone who lives together at your address as one economic unit (including children and people who are not related to you).

The **adults** you live with are part of your **economic unit** if they contribute to and share in the income and expenses of the household. An **adult** is any person 18 years of age or older, or an emancipated minor (a person under age 18 who is legally considered to be an adult). Household **expenses** include food, health care expenses (such as medical bills) and the cost of renting or paying a mortgage on your place of residence (a house or apartment, for example) and utilities (including water, heat and electricity). **Income** includes salary, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, and lottery winnings.

Spouses and domestic partners are considered to be part of the same household. Children under the age of 18 living with their parents or guardians are considered to be part of the same household as their parents or guardians. If an adult has no income, or minimal income, and lives with someone who provides financial support to that adult, both people are considered part of the same household.



*You have been asked to complete this Worksheet because someone else currently receives a Lifeline-supported service at your address. This other person may or may not be a part of your household. Answer the questions below to determine whether there is more than one household residing at your address.*

1. Does your spouse or domestic partner (that is, someone you are married to or in a relationship with) already receive a Lifeline-discounted phone? (check no if you do not have a spouse or partner)

YES  NO

If you checked YES, you may not sign up for Lifeline because someone in your household already receives Lifeline. Only ONE Lifeline discount is allowed per household.  
If you checked NO, please answer question #2.

2. Other than a spouse or partner, do other adults (people over the age of 18 or emancipated minors) live with you at your address?

A. A parent

YES  NO

B. An adult son or daughter

YES  NO

C. Another adult relative (such as a sibling, aunt, cousin, grandparent, grandchild, etc.)

YES  NO

D. An adult roommate

YES  NO

E. Other

YES  NO

If you checked NO for each statement above, you do not need to answer the remaining questions. Please initial line B, below, and sign and date the worksheet.

If you checked YES, please answer question #3.

3. Do you share living expenses (bills, food, etc.) and share income (either your income, the other person's income or both incomes together) with at least one of the adults listed above in question #2?

YES  NO

If you checked NO, then your address includes **more than one household**. Please initial lines A and B below, and sign and date the worksheet.

If you checked YES, then your address includes **only one household**. You may not sign up for Lifeline because someone in your household already receives Lifeline.

### CERTIFICATION

Please initial the certifications below and sign and date this worksheet. Submit this worksheet to SafeLink Wireless along with your Lifeline application.

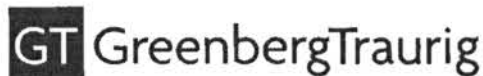
A.  I certify that I live at an address occupied by multiple households.

B.  I understand that violation of the one-per-household requirement is against the Federal Communication Commission's rules and may result in me losing my Lifeline benefits, and potentially, prosecution by the United States government.

Signature \_\_\_\_\_

Date \_\_\_\_\_

# **EXHIBIT 4**



Debra McGuire Mercer  
Tel 202.331.3194  
Fax 202.261.0194  
mercerdm@gtlaw.com

February 13, 2017

**VIA CERTIFIED MAIL**

Stephen R. Lewis  
Governor  
Gila River Indian Community of the Gila River Indian Reservation, Arizona  
P.O. Box 97  
Sacaton, AZ 85147

Re: TracFone Wireless, Inc. – Petition to Expand Eligible Telecommunications Carrier Designation to Include Tribal Lands (Docket No. T-20664A-17-0013)

Dear Mr. Lewis:

On January 12, 2017, TracFone Wireless, Inc. (“TracFone”) filed with the Arizona Corporation Commission (“Commission”) a Petition to Expand Eligible Telecommunications Carrier Designation to Include Tribal Lands (Docket No. T-20664A-17-0013). A copy of TracFone’s filing is enclosed. TracFone understands that the Commission’s jurisdiction includes Tribal lands served by non-Tribally owned carriers, but does not include Tribal lands served by Tribally owned carriers. Therefore, TracFone will be filing an amendment to its Petition to identify the Tribal lands served by non-Tribally owned carriers that TracFone seeks to include within its designated service area for purposes of offering Lifeline service. TracFone is in the process of identifying Tribal lands served by non-Tribally owned carriers and will provide you with a copy of its amendment to the Petition at the time of filing. In addition, upon identifying any Tribal lands that TracFone seeks to serve, TracFone will contact the relevant Tribal governments so that it can work with those governments, as well as with any Tribal regulatory authorities, and discuss any applicable licenses or business approvals that are required for TracFone to commence service.

Sincerely,

A handwritten signature in cursive script that reads "Debra McGuire Mercer".

Debra McGuire Mercer

*Counsel for TracFone Wireless, Inc.*

Enclosure

7013 1710 0000 0651 5683

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Total Postage & Fees	\$ 4.75



Sent To Stephen R. Lewis, Governor  
 Gila River Indian Community  
 Street, Apt. No., or PO Box No. P.O. Box 97  
 City, State, ZIP+4 Sacaton, AZ 85147