

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Bridging the Digital Divide for Low-Income Consumers)	WC Docket No. 17-287
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197

**OCETI SAKOWIN TRIBAL UTILITY AUTHORITY REPLY COMMENTS ON
EMERGENCY PETITION OF TRACFONE WIRELESS, INC. FOR ORDER
DIRECTING USAC TO ALTER THE IMPLEMENTATION OF THE NATIONAL
VERIFIER AND A WAIVER OF 47 C.F.R. § 54.410(D)(3) AND PETITION FOR
RULEMAKING**

The Oceti Sakowin Tribal Utility Authority (“OSTUA”) hereby respectfully submits these Reply Comments in support of the Emergency Petition of TracFone Wireless, Inc. for an Order Directing USAC to Alter the Implementation of the National Verifier and a Waiver of 47 C.F.R. § 54.410(d)(3) (“Emergency Petition”).¹ Lifeline service for residents of Tribal lands is critically important for their health, safety, and welfare, which was most recently recognized by the United States Court of Appeals for the District of Columbia Circuit. In its Order granting Stay of the *Tribal Lifeline Order*,² the Court recognized the important role of Lifeline service for

¹ Emergency Petition of TracFone Wireless, Inc. for an Order Directing USAC to Alter the Implementation of the National Verifier and a Waiver of 47 C.F.R. § 54.410(d)(3) and Petition for Rulemaking, WC Docket Nos. 17-287, 11-42, 09-197 (filed Nov. 30, 2018); *Wireline Competition Bureau Seeks Comment on Emergency Petition of TracFone Wireless, Inc. for an Order Directing USAC to Alter the Implementation of the National Verifier and a Waiver of 47 C.F.R. § 54.410(d)(3) and Petition for Rulemaking*, WC Docket Nos. 17-287, 11-42, 09-197, Public Notice, DA 18-1229 (rel. Dec. 4, 2018) (Public Notice).

² *Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, Fourth

residents of Tribal lands, stating that Lifeline service provides “critical telecommunications services for many tribal residents, which are vital for day-to-day medical, educational, family care, and other functions.”³ The National Verifier, as implemented by the Universal Service Administration Company (“USAC”), has resulted in residents of Tribal lands being “disconnected” from critical telecommunications services. “In Wyoming, nearly all of the Lifeline subscribers included in the analysis are Tribal Lifeline subscribers who reside on the Wind River Reservation and who will be de-enrolled from Lifeline starting in January 2019.”⁴

In its Emergency Petition, TracFone requests that the FCC direct USAC to promptly make eleven changes to the implementation of the National Verifier aimed at allowing eligible low-income consumers to obtain critical Lifeline services. OSTUA applauds TracFone for taking the initiative to address the systemic problems with the National Verifier that are causing irreparable harm to low-income consumers. For many residents of Tribal lands, these changes, however, may not be enough. OSTUA believes that the FCC should direct USAC to pause the implementation of the National Verifier, make the changes proposed by TracFone and then reevaluate the effectiveness of the new and improved National Verifier prior to redeployment. The FCC should, however, continue to allow residents of Tribal lands to establish eligibility, and reverify eligibility, through the manual process that was in place prior to the rollout of the new burdensome requirements for eligibility documentation and address error resolution until it can be proven that the National Verifier does not act as a barrier to residents of Tribal lands

Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155, December 1, 2017 (“*December 2017 Lifeline Order, NPRM, and NOI*”), appeal pending, Stay granted, *see* footnote 3).

³ *National Lifeline Association, et al. v. Federal Communications Commission and United States of America, Oceti Sakowin Tribal Utility Authority*, Order at p. 2, Case. No. 18-1026, August 10, 2018.

⁴ National Lifeline Association Comments at p. 5.

obtaining Lifeline service. The FCC should also pause the usage of the Universal Lifeline Consumer Form until the form has been redesigned according to TracFone’s recommendations to make it more accessible, convenient, and consumer-friendly for Lifeline applicants.

The importance of Lifeline service for Tribal lands cannot be overstated. In a GAO Report To Congressional Requestors, “affordability” was identified as the primary barrier to obtaining broadband service by residents of Tribal lands.⁵

FCC officials also noted that affordability is a key factor that affects whether people choose to subscribe to broadband services—known as “broadband adoption.” As a result, according to officials, availability alone may be an incomplete indicator of broadband adoption.⁶

For Tribal lands, “affordability” is primarily addressed through the Lifeline program or specific programs implemented by Tribal entities.⁷ On many Tribal lands, a very high percentage of residents take advantage of, and are eligible for, Lifeline service. But, the National Verifier is now preventing many residents of Tribal lands from obtaining affordable telephone and broadband service. It is therefore critically important for the FCC to adopt the changes to the National Verifier, the paper application forms, and eligibility documentation as proposed by TracFone that affect all states and enable all residents of Tribal lands to establish eligibility, and reverify eligibility, through the one-stop process with the assistance of Lifeline carriers.

⁵ United States Government Accountability Office, Report to Congressional Requesters, *Broadband Internet, FCC’s Data Overstate Access on Tribal Lands*, September 2018 (“GAO Tribal Report”).

⁶ *GAO Tribal Report* at p. 19, footnote 38.

⁷ For example, the Native American Telecom Companies have established innovative Internet Library and Technology Centers on the Pine Ridge and Crow Creek reservations that make available affordable access to the Internet and computer services for Tribal residents.

CONCLUSION

OSTUA respectfully submits these Reply Comments on Tracfone's Emergency Petition.

Respectfully submitted,

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