

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

In the Matter of	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

**REPLY COMMENTS OF GILA RIVER TELECOMMUNICATIONS, INC.**

Gila River Telecommunications, Inc. (“GRTI”), by its attorneys, hereby submits these reply comments in the above-referenced proceeding in which the Federal Communications Commission (“FCC” or “Commission”) makes a further inquiry into proposals to comprehensively reform and modernize the universal Lifeline and Link Up programs.<sup>1</sup>

In the *Further Inquiry*, the Commission sought comment on its statutory authority to permit universal service dollars to be used to fund equipment and training for a proposed broadband pilot program.<sup>2</sup> TracFone Wireless, Inc. (“TracFone”) submitted comments in response to the *Further Inquiry* contending that Universal Service Fund (“USF”) support may not be used to fund equipment or training.<sup>3</sup> TracFone argues that the Commission does not have authority under Section 254(b) of the Communications Act of 1934, as amended (the “Act”) to

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<sup>1</sup> *Further Inquiry Into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, Public Notice, DA 11-1346 (WCB rel. Aug. 5, 2011) (“*Further Inquiry*”).

<sup>2</sup> *Id.* at ¶ 1.a.

<sup>3</sup> Comments of TracFone Wireless, Inc. in WC Docket No. 11-42 et al., at 1-3 (filed Aug. 26, 2011) (“TracFone Comments”).

support equipment and training.<sup>4</sup> According to TracFone, the use of the word “service” in Section 254(b) “does not include equipment, nor does it include training.”<sup>5</sup> TracFone cites to the Commission’s *Second Computer Inquiry* decision to support its argument that the provision of customer premises equipment “is not common carrier service and may not be offered as a service on a regulated, tariffed basis.”<sup>6</sup> For the reasons discussed herein, TracFone’s argument fails on multiple accounts.

The Commission has adequate statutory authority to provide support for broadband equipment and training. As an initial matter, TracFone’s argument focuses only on the word “services” in Section 254(b). However, as GRTI pointed out in its comments to the *Further Inquiry*, Sections 254(b)(2) and (3) provide the Commission with authority to take necessary action to increase “access to services.”<sup>7</sup> Access to services cannot be achieved without broadband capable equipment and the skills to utilize broadband services.

Further, the Commission also has authority pursuant to the broader mandates of Sections 151 and 154(i) of the Act to support equipment and training. Indeed, eleven years before the Telecommunications Act of 1996 provided the Commission with universal service principles contained in Section 254(b), the Commission established the Lifeline and Link Up programs

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.* at 2 (citing to *Amendment of § 64.702 of the Commission’s Rules and Regulations (Final Decision)*, 77 FCC 2d 384 (1980) (“*Second Computer Inquiry*”), *modified on reconsideration*, 84 FCC2d 50 (1980), *further reconsideration*, 88 FCC2d 512 (1981), *aff’d. sub nom.*, *Computer and Communications Industries Association v FCC*, 593 F.2d 198 (D.C. Cir. 1982), *cert. den.* 461 U.S. 983 (1983)).

<sup>7</sup> Comments of GRTI in WC Docket No. 11-42, at 4-5 (filed Aug. 26, 2011) (“GRTI Comments”).

pursuant to its general authority provided under these sections of the Act to increase adoption.<sup>8</sup>

Even TracFone acknowledges that a mechanism to support the cost of broadband equipment and training would increase broadband adoption.<sup>9</sup>

Finally, TracFone's reliance on the *Second Computer Inquiry* is misplaced. The *Second Computer Inquiry* addressed whether including charges for terminal equipment in a carrier's tariff for communications services was in the public interest.<sup>10</sup> For obvious reasons, the *Second Computer Inquiry* is totally inapposite. The current situation does not involve the regulation of rates or services or whether the cost of broadband equipment can be included in such rates. Rather, the issue is simply directed at the provision of USF support for equipment to Lifeline eligible participants. Here, the Commission would not get involved in the regulation of rates or the manner in which broadband equipment would be provided. The Commission could provide eligible subscribers with support that would amount to a discount on the price of such equipment. Equipment producers would still be able to provide such equipment with no additional regulation imposed by the Commission.

GRTI supports the FCC's effort to increase the availability of telephone and broadband service to residents of tribal communities.<sup>11</sup> Consequently, the Commission should reject any

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<sup>8</sup> See *Lifeline and Link Up Reform and Modernization; Federal-State Joint Board on Universal Service; Lifeline and Link Up*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, Notice of Proposed Rulemaking, 26 FCC Rcd 2770, fn. 22 (2011).

<sup>9</sup> See TracFone Comments at 2 ("TracFone agrees that widespread use of broadband services among low-income consumers would be advanced if subsidized equipment and training were available.").

<sup>10</sup> Up until that point, the cost of providing, marketing, servicing, and maintenance of terminal equipment was bundled by telecommunications carriers into the rates they charged for interstate service. See *Second Computer Inquiry* at ¶ 160.

<sup>11</sup> In addition, in order to eliminate any confusion, GRTI would like to restate its position regarding Smith Bagley, Inc.'s proposal to provide additional Lifeline support to all adults living below the federal poverty line on Tribal lands. See GRTI Comments at 13-14. GRTI supports the provision of enhanced Lifeline service to every eligible residence plus one additional adult per

suggestion that it lacks authority to use USF funds to support the cost of broadband equipment and training.

Respectfully Submitted,

**Gila River Telecommunications, Inc.**

By:     /s/ Tom W. Davidson      
Tom W. Davidson, Esq.  
Kimberly Reindl, Esq.  
Sean Conway, Esq.  
Akin Gump Strauss Hauer and Feld LLP  
1333 New Hampshire Avenue, NW  
Washington, DC 20036  
(202) 887-4011

*Its Attorneys*

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residence on Tribal lands for residences below the federal poverty line. GRTI does not support the provision of additional Lifeline service to all adults on Tribal lands living below the federal poverty line.