

**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
)	
Lifeline and Link Up)	WC Docket No. 03-109
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45

**COMMENTS OF
THE GILA RIVER INDIAN COMMUNITY AND
GILA RIVER TELECOMMUNICATIONS, INC. IN SUPPORT OF THE TRACFONE
REQUEST TO INCLUDE THE CHILDREN’S HEALTH INSURANCE PROGRAM AS A
QUALIFYING LIFELINE PROGRAM**

The Gila River Indian Community (“GRIC”) and Gila River Telecommunications, Inc. (“GRTI”), by its attorneys, hereby submit these comments in the above-referenced proceeding in which the Wireline Competition Bureau of the Federal Communications Commission (“FCC” or “Commission”) seeks comment¹ on the request² filed by TracFone Wireless, Inc. (“TracFone”) to include the Children’s Health Insurance Program (“CHIP”) in the list of qualifying assistance programs for Lifeline in 47 C.F.R. § 54.409(a)(2).³ GRTI and the GRIC support the TracFone Request.

¹ *Wireline Competition Bureau Seeks Comment on TracFone Request to Include the Children’s Health Assistance Program as a Qualifying Lifeline Program*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45; Public Notice, DA 12-1269 (WCB rel. Aug. 7, 2012).

² Request of TracFone Wireless, Inc. to Include the Children’s Health Insurance Program in the List of Qualifying Assistance Programs, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (filed July 13, 2012) (“TracFone Request”).

³ GRTI is a telecommunications carrier wholly-owned and operated by the GRIC. Formed in 1988 for the purpose of providing affordable telephone services to residents of the

The Lifeline program is available to eligible low-income consumers in every state, territory, commonwealth, and on tribal lands. To participate in the program, consumers must (1) have an income that is at or below 135% of the federal Poverty Guidelines; (2) participate in one of eleven qualifying federal assistance programs; or (3) meet eligibility criteria established by a state for its residents. The current list of qualifying federal assistance programs includes Medicaid, which provides medical assistance to low-income persons and is jointly financed by the federal and state governments and administered by states.

CHIP is not currently a qualifying federal assistance program. CHIP provides health coverage to children in low-income families with income that exceeds the income requirement to qualify for Medicaid, but who cannot afford private health coverage. Similar to Medicaid, CHIP is jointly financed by the federal and state governments and administered by States. States can elect to obtain CHIP health benefits for the children of qualifying low-income residents either through a (1) Medicaid expansion program; (2) separate child health program; or (3) combination program.⁴ Under this structure, a child who receives CHIP benefits in a state that provides such benefits as part of a Medicaid expansion program will enable his or her household to qualify for Lifeline benefits based on the child's participation in Medicaid. However, a child who receives CHIP benefits in a state that has a separate child health program will not enable his or her household to qualify for Lifeline benefits because the child is not a Medicaid participant. In states that have a combination program, a household's eligibility to receive Lifeline benefits depends on whether that particular state's rules qualify the child for CHIP benefits through an

GRIC, GRTI today provides voice, data and Internet services to residents and businesses in a largely low-income, tribal population.

⁴ When a state elects the third option of using a combination program, it "implements both a Medicaid expansion program and a separate child health program." 42 C.F.R. § 457.10

expanded Medicaid program (in which case the household would qualify for Lifeline) or a separate child health program (in which case the household would not qualify for Lifeline). Such a structure is both unfair and needlessly complicated.

In light of these facts, TracFone makes two arguments in support of its request to include CHIP in the list of qualifying assistance programs. First, TracFone states that the addition of CHIP to the list of qualifying assistance programs will advance the goal of ensuring universal availability of telecommunications services to low-income consumers. Second, TracFone argues that the inclusion of CHIP as a qualifying assistance program for Lifeline will remedy the existing unfair discriminatory treatment of certain CHIP participants due to variations in the administration of CHIP by states. These arguments are particularly convincing when the circumstances of low-income tribal residents are taken into account.

The addition of CHIP to the list of qualifying assistance programs likely will advance the goal of ensuring universal availability of telecommunications to tribal populations. Affordability is by far the most significant factor limiting universal service among tribal populations. Due to extreme poverty among this group, many tribal residents cannot afford the full price of telephone service without Lifeline assistance. Including CHIP as a qualifying assistance program would substantially lower the economic barrier to telephone service for a segment of the population that the federal and state governments have identified as unable to afford a basic service (i.e., health coverage for their children).

However, economic barriers are not the only reason that many tribal residents forego telephone service. Administrative barriers to enrollment in the Lifeline program can be substantial, especially for tribal populations. Specifically, cultural and linguistic factors heighten administrative barriers in tribal communities. For example, many Native Americans hold a

distrust of government and non-tribal businesses or are unable to read and understand complex and varying eligibility requirements.⁵ However, the addition of CHIP to the list of qualifying assistance programs will further streamline the Commission's Lifeline enrollment rules. Thus, for those tribal residents reluctant to share household income information with Lifeline providers, documentation of CHIP participation will enable such residents to qualify for Lifeline service. For residents with linguistic challenges, this rule change will simplify what can be an onerous Lifeline enrollment process. Effectively, the Commission will attract families who have been reluctant or unable to provide the documentation to qualify for Lifeline.

Not surprisingly, GRTI has found that many of its Lifeline subscribers prove Lifeline eligibility by demonstrating participation in a qualifying assistance program. In fact, presently 79% of GRTI's Lifeline subscribers demonstrate Lifeline eligibility through participation in a qualifying assistance program. Consequently, it is likely that the addition of CHIP to the list of qualifying assistance programs will further Lifeline participation by tribal residents.

TracFone's second argument in favor of its request is that the Commission should address the current discriminatory treatment of CHIP participants whereby CHIP participants in some states qualify for Lifeline while CHIP participants in other states do not. As of September 2011, 17 states have separate child health programs, 7 states and the District of Columbia have an

⁵ For example, tribal populations are undercounted by the U.S. Census due to skepticism by tribal populations of the federal government. *See, e.g.*, News Release, U.S. Census Bureau, Census Bureau Releases Estimates of Undercount and Overcount in the 2010 Census (May 22, 2012) (estimating a 4.9% undercount of "American Indians and Alaska Natives living on reservations") *available at* http://www.census.gov/newsroom/releases/archives/2010_census/cb12-95.html; *Census Bureau Tackles Undercount of Native Americans*, SEATTLE TIMES, May 26, 2010, *available at* http://seattletimes.nwsourc.com/html/localnews/2011962971_nativecensus27m.html.

expanded Medicaid program, and 26 states have combination programs.⁶ This current structure is overly confusing and unfairly discriminates against those low-income households located in states that administer CHIP through a separate child health program or a combination program in which the CHIP participant qualifies for benefits under the state's CHIP program.

Tribal populations are affected significantly by this inconsistency. For example, according to the 2010 Census, four of the top seven states as measured by tribal population had separate state child health plans.⁷ These four states alone comprise 21% of America's tribal population.⁸ All told, more than 34% of America's tribal population lives in states that have separate state child health plans.⁹ These numbers represent a significant portion of tribal American that may be unfairly prevented from qualifying for Lifeline service as a result of the

⁶ See Children's Health Insurance Program – Plan Activity as of September 22, 2011, available at <http://medicaid.gov/CHIP/CHIP-Program-Information.html>, viewed on August 31, 2011.

⁷ See U.S. CENSUS BUREAU, THE AMERICAN INDIAN AND ALASKA NATIVE POPULATION: 2010 7 (2012). The top seven states, as measured by the number of residents reporting being American Indian and Alaska Native, either alone or in combination with one or more other races, are, in order of population, California, Oklahoma, Arizona, Texas, New York, New Mexico, and Washington. Arizona, Texas, New York, and Washington have separate state child health plans. *Id.*

⁸ The number of residents reporting being American Indian and Alaska Native, either alone or in combination with one or more other races, in Arizona (353,386), Texas (315,264), New York (221,058), and Washington (198,998) total 1,088,706, while the nationwide population of the same demographic is 5,220,579 ($1,088,706/5,220,579 = 21\%$). *Id.*

⁹ The number of residents reporting being American Indian and Alaska Native, either alone or in combination with one or more other races, in those states with separate state child health plans totals 1,789,473: Alabama (57,118), Arizona (353,386), Colorado (107,832), Connecticut (31,140), Georgia (84,024), Kansas (59,130), Mississippi (25,910), Nevada (55,945), New York (221,058), Oregon (109,223), Pennsylvania (81,092), Texas (315,264), Utah (50,064), Vermont (7,379), Washington (198,998), West Virginia (13,314), and Wyoming (18,596). *Id.* There are a total of 5,220,579 people in the United States reporting being American Indian and Alaska Native, either alone or in combination with one or more other races. *Id.* $1,789,473/5,220,579 = 34.3\%$.

current inconsistency between state laws. However, by granting the TracFone Request, the Commission will rectify this inconsistency.

Tribal populations have a lower telephone penetration rate than any other group. By granting the TracFone Request and adding CHIP to the list of qualifying assistance programs, the Commission stands to benefit significantly this population. First, including CHIP as a qualifying assistance program will advance the goal of universal service among tribal populations by lowering economic and administrative barriers to participation in the Lifeline program. In addition, by remedying the existing unfair discriminatory treatment of CHIP participants in varying states, the Commission will rectify an inconsistency that significantly negatively affects tribal populations. Rectifying this inconsistency may make Lifeline service available to a significant tribal population that currently may not qualify for Lifeline service due to the state in which they reside.

Consequently, the Commission should grant the TracFone Request.

Respectfully Submitted,

The Gila River Indian Community and Gila River Telecommunications, Inc.

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