



CROW CREEK SIOUX TRIBE
FORT THOMPSON, SOUTH DAKOTA 57339

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

In the Matter of the Petition of)
WWC License, LLC and RCC)
Minnesota, Inc. for Relinquishment) TC12-158
Of Eligible Telecommunications)
Carrier Designation)

COMMENTS OF THE CROW CREEK TRIBAL UTILITY AUTHORITY

The Crow Creek Tribal Utility Authority of the Crow Creek Sioux Tribe ("Tribal Authority") hereby submits these Comments on the Petition for Relinquishment of Eligible Telecommunications Carrier Designation by WWC License, LLC and RCC Minnesota, Inc. filed with the Commission on September 21, 2012 ("Verizon Petition"). Verizon contends that its "services and coverage will not be affected in South Dakota" by the relinquishment of Eligible Telecommunications Carrier ("ETC") status. Verizon Petition at para. 9. If true, then Verizon has not been fulfilling its obligations as an ETC in South Dakota because, as an ETC, Verizon has numerous obligations, including:

1. building out network facilities and wireless coverage in rural areas, including unserved areas within the Crow Creek reservation, consistent with 47 C.F.R. § 54.7;
2. providing Lifeline and Link Up services on Tribal Lands, including on the Crow Creek reservation, consistent with 47 C.F.R. § 54.405; and
3. consulting with the Crow Creek Sioux Tribe on its operation as an ETC

on the Crow Creek reservation, consistent with 47 C.F.R. § 54.313.

Upon relinquishment of ETC status, Verizon will have NO obligation to build out network facilities in rural areas of South Dakota, will have NO obligation to provide Lifeline and Link Up service, and will have NO obligation to consult with the Tribes with respect to its provision of service on Tribal Lands. Nonetheless, according to Verizon, its “services and coverage will not be affected in South Dakota,” but clearly Verizon’s service and obligations in South Dakota will be significantly affected by its proposed relinquishment of ETC status.

Turning to whether the Commission is legally required to grant its request for relinquishment, Verizon states that “Commission approval of a competitive ETC’s notice of relinquishment is mandatory.” Verizon Petition at p. 5. The law, however, does not unconditionally require relinquishment as Verizon seems to imply. 47 U.S.C. § 214(e)(4) provides:

A State commission (or the Commission in the case of a common carrier designated under paragraph (6)) shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) of such relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The State commission (or the Commission in the

case of a common carrier designated under paragraph (6)) shall establish a time, not to exceed one year after the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.

The law is clear that relinquishment is permitted ONLY IF: (1) there is more than one ETC serving the area to be relinquished; and (2) the remaining ETC will serve the customers of the carrier seeking to relinquish ETC status. Verizon is a wireless ETC serving many areas of South Dakota that do not have access to wireline service from incumbent local exchange carriers (“ILECs”), who will be the remaining ETCs tasked with serving Verizon’s universal service customers, including Lifeline customers. On the Crow Creek reservation, there are vast geographic areas without wireline service, but where wireless service is available. Prior to approving Verizon’s request for relinquishment, this Commission must determine whether the remaining ETCs are able to “fill the shoes” of the relinquishing ETC, *e.g.*, Verizon. In the case of the Crow Creek reservation, the Tribal Authority respectfully requests that Verizon provide an analysis of all of its universal service customers, including Lifeline customers, on the Crow Creek reservation and whether these customers are able to obtain similar universal service, including Lifeline service, from the remaining ETC on the Crow Creek reservation.

Verizon states that it will continue to provide service in South Dakota, including a discounted service offering similar to Lifeline service for one year after relinquishment of ETC status, but there is a significant difference between Verizon’s provision of unregulated mobile voice service and the provision of a highly regulated Lifeline service offering by an ETC consistent with the FCC Lifeline rules,

47 C.F.R. §§ 54.400 – 54.422. The Tribal Authority respectfully requests that Verizon provide an analysis of its currently available Lifeline service offering and its proposed discounted service offering that will be similar to Lifeline service. This analysis should include not only the applicable rates, but all of the terms and conditions of service.

The Tribal Utility Authority is not seeking to force Verizon to maintain ETC status, especially on the Crow Creek reservation, but, instead, is seeking to have Verizon meet its current universal service obligations and not “walk away” from these obligations until there is a plan in place that ensures that Verizon’s universal service customers, including those on the Crow Creek reservation, are able to obtain service from another carrier. The fact that Verizon has voluntarily agreed to forgo high cost universal service support after December 31, 2012 should not dictate the timing of its possible ETC relinquishment.

The Tribal Authority looks forward to working with the Commission, the Federal Communications Commission, and Verizon Wireless to ensure that the needs of all universal service consumers, including Verizon’s Lifeline customers on the Crow Creek reservation, are properly addressed in any relinquishment of Verizon’s ETC status.

Respectfully submitted,

Crow Creek Tribal Utility Authority

By: //Brandon Sazue//
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