

**BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

TracFone Wireless, Inc.)
Petition for Designation as an Eligible)
Telecommunications Carrier in the State of)
South Dakota for the Limited Purpose of) Docket No. _____
Providing Lifeline Service to Qualifying)
Customers)
)

**PETITION OF TRACFONE WIRELESS, INC. FOR DESIGNATION
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE
OF SOUTH DAKOTA FOR THE LIMITED PURPOSE OF OFFERING
LIFELINE SERVICE TO QUALIFIED HOUSEHOLDS**

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TracFone Wireless, Inc. (TracFone or Company), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the Communications Act)¹ and Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (FCC),² South Dakota Codified Laws,³ and the rules of the South Dakota Public Utilities Commission (Commission)⁴ hereby submits this Petition for Designation as an Eligible Telecommunications Carrier (ETC) in the State of South Dakota. TracFone seeks ETC designation solely to provide Lifeline service under the brand names TracFone Wireless, SafeLink Wireless, Simple Mobile, Straight Talk, Total by Verizon, and Walmart Family Mobile to qualifying South Dakota consumers. TracFone does not request ETC designation for the purpose of receiving support from any other Universal Service Fund (USF) programs.

As demonstrated herein, and as certified in Exhibit 1 to this Petition, the Company meets all the federal and state statutory and regulatory requirements for designation as an ETC for the purpose of providing Lifeline service in South Dakota. TracFone respectfully requests that the

¹ 47 U.S.C. § 214(e)(2).

² 47 C.F.R. §§ 54.101-54.207.

³ SDCL Laws § 49-31-78.

⁴ ARSD 20:10:32:42-43.

Commission grant this Petition promptly so that TracFone may provide Lifeline service to low-income South Dakota households at the earliest practicable time.

I. DESCRIPTION OF TRACFONE

TracFone is incorporated under the laws of the State of Delaware. Its corporate offices are located at 9700 N.W. 112th Avenue, Miami, Florida 33178. TracFone is authorized to transact business in South Dakota as a foreign corporation. TracFone offers its services under nine (9) different brand names – TracFone, Net10 Wireless, Straight Talk Wireless, Walmart Family Mobile, Simple Mobile, Total by Verizon, SafeLink Wireless, Page Plus and GoSmart Mobile – designed to offer consumers a variety of flexible service options. TracFone is designated as an ETC to receive Lifeline support in 41 states, the District of Columbia, and Puerto Rico.⁵ TracFone provides Lifeline-supported service primarily through its SafeLink Wireless brand. Lifeline-supported service also is available through other TracFone brands, including Walmart Family Mobile.

TracFone is a wholly-owned subsidiary of Verizon Communications Inc. (Verizon), a publicly traded Delaware corporation headquartered in New York, New York. Verizon is a holding company that, through its subsidiaries, offers voice, data and video services nationwide. Verizon is one of the world's leading providers of communications, technology, information and entertainment products and services. Verizon's wireless division, Cellco Partnership d/b/a

⁵ In April 2008, the Federal Communications Commission (FCC) designated TracFone as an ETC eligible to receive Lifeline support in Alabama, Connecticut, Delaware, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Tennessee, Virginia, and the District of Columbia. *See Federal-State Joint Board on Universal Service, TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York et al.*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008). TracFone has also obtained ETC designation from over 30 states that assert jurisdiction over ETC designations. The only states where TracFone does not offer a Lifeline-supported service are Alaska, Montana, Nebraska, North Dakota, Oregon, South Dakota and Wyoming.

Verizon Wireless, is a mobile network operator (MNO) that provides nationwide voice and data services to over 143 million wireless subscribers.

TracFone, which became a wholly-owned subsidiary of Verizon on November 23, 2021, uses Verizon Wireless's facilities, and as such, offers service using its own facilities. Prior to Verizon's acquisition of TracFone, the Company operated as a Mobile Virtual Network Operator (MVNO) by reselling the commercial mobile services provided by Verizon, AT&T Wireless, T-Mobile and other facilities-based wireless providers. TracFone has offered wireless service throughout the State of South Dakota continuously for more than twenty years. TracFone was one of the first telecommunications providers to recognize the value to consumers of prepaid wireless service, particularly to the low-income market segment, as a beneficial service. TracFone's business success has been built on its longstanding practice of tailoring service to the specific needs of prepaid wireless customers, and it derives revenue from non-Lifeline customers, as well as from the sale of additional airtime minutes to its Lifeline customers.

II. THE COMMISSION HAS AUTHORITY TO DESIGNATE WIRELESS CARRIERS AS ETCs FOR THE LIFELINE PROGRAM

Section 214(e)(2) of the Act provides state public utility commissions with the primary responsibility for the designation of ETCs.⁶ Under the Act, a state public utility commission, like the Commission, with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of Section 214(e)(1).⁷ The Commission has exercised its authority to designate wireless carriers as ETCs.⁸ Therefore, the

⁶ 47 U.S.C. § 214(e)(2).

⁷ See ARSD 20:10:32:42.

⁸ See, e.g., *In the Matter of the Application of Boomerang Wireless dba en Touch Wireless for Designation as an Eligible Telecommunications Carrier*, Order, Docket No. TC13-035 (April 20, 2017).

Commission has the authority to designate TracFone as an ETC. As demonstrated below, TracFone fulfills the requirements to be designated as an ETC in South Dakota.

III. TRACFONE MEETS THE LEGAL REQUIREMENTS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

Section 254(e) of the Communications Act (47 U.S.C. § 254(e)) provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.” Section 214(e)(2) of the Communications Act provides that a State commission “shall . . . upon request designate a common carrier that meets the requirements of paragraph (1) [of Section 214(e)] as an eligible telecommunications carrier for a service area designated by the State commission.”

As demonstrated below, TracFone meets the requirements for ETC designation by the Commission pursuant to Section 214(e)(2) of the Communications Act, the FCC’s rules, and ARSD 20:10:32:43. In addition, TracFone complies with the standards established by the FCC for determining whether applicants for ETC designation serve the public interest.⁹

A. TRACFONE IS A COMMON CARRIER

TracFone operates as a common carrier as defined in 47 C.F.R. § 153(11).¹⁰ The FCC consistently has held that providers of wireless services are to be treated as common carriers for regulatory purposes. In addition, Section 332(c)(1)(A) of the Communications Act states that commercial mobile radio service providers will be regulated as common carriers.¹¹ TracFone

⁹ See *Federal-State Joint Board on Universal Service*, FCC 05-46, ¶¶ 40-43 (2005) (Public Interest Order); see also *Virgin Mobile ETC Designation Order in the States of Alabama, Connecticut, Delaware, New Hampshire and the District of Columbia*, WC Docket 09-197, Order, DA 10-2433, ¶ 6 (rel. Dec. 29, 2010).

¹⁰ See 47 U.S.C. § 153(11) (defining a common carrier as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio . . .”).

¹¹ 47 C.F.R. § 332(c)(1)(A) (treating commercial mobile service providers as common carriers).

provides commercial mobile radio services and, accordingly, is a common carrier. The Company meets the common carrier requirement for ETC designation pursuant to Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules.

B. TRACFONE WILL OFFER THE SERVICES SUPPORTED BY FEDERAL UNIVERSAL SERVICE

TracFone is able to provide all of the supported services required by Section 54.101(a) of the FCC's rules. As set forth in Section 54.101(a)(1) of the FCC's rules, the Lifeline-supported services include voice telephony service and broadband Internet access service (BIAS).¹²

Voice Telephony Service

Eligible voice telephony services, as defined in 47 C.F.R. § 54.400 (m), must provide the following:

Voice Grade Access to the Public Switched Telephone Network. Voice telephone service requires "voice grade access to the public switched network or its functional equivalent."¹³ The FCC describes "voice grade access" as the ability for a user to make and receive telephone calls within a specified bandwidth.¹⁴ TracFone provides voice grade access to its end users through its provision of mobile voice communications service and interconnection to the public switched telephone network via Verizon Wireless's mobile network.

¹² See 47 C.F.R. § 54.400(m) (defining "voice telephony service" as including voice grade access to the public switched network, minutes of use for local service provided at no additional charge, access to emergency services and toll limitation services); 47 C.F.R. § 54.400(l) (defining BIAS as a mass-market retail service that provides the capability to transmit data to and receive data from all or substantially all internet endpoints).

¹³ 47 C.F.R. § 54.400(m).

¹⁴ See *Federal-State Joint Board on Universal Service*, First Report and Order, CC Docket No. 96-45, FCC 97-157, ¶ 63 (rel. May 8, 1997).

Local Usage at No Additional Charge. Voice telephony service also requires “minutes of use for local service provided at no additional charge to end users.”¹⁵ The FCC has “noted that many providers do not distinguish between local and long distance usage, and [has] concluded that carriers may satisfy the obligation to provide local usage via service offerings that bundle local and long distance minutes.”¹⁶ The FCC has further determined that Lifeline service offerings may fulfill the local usage requirement in the same manner.¹⁷ TracFone provides customers the ability to send and receive local calls wherever it provides service and does not distinguish between local and long distance calling, thereby providing a nationwide calling area. As described below, TracFone’s bundled voice and data services that will be offered to eligible households include 350 voice minutes each month that can be used for local service and will allow customers to use their airtime minutes to send and receive local calls at no additional charge.¹⁸

Access to Emergency Services. Pursuant to 47 C.F.R. § 54.400(m), an ETC must provide “access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible telecommunications carrier’s service area has implemented 911 or enhanced 911 systems.” TracFone provides universal access to the 911 calling system for its customers through the Verizon Wireless network regardless of activation status and availability of minutes. TracFone

¹⁵ 47 C.F.R. § 54.400(m).

¹⁶ *See Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42 and 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012), ¶ 49 (2012 Lifeline Reform Order).

¹⁷ *Id.*

¹⁸ TracFone’s Lifeline plan, which includes 350 voice minutes that can be used for local usage meets the Commission’s requirement that the applicant’s local usage plan be comparable to plans offered by ILECs within the proposed designated service area. *See* ARSD 20:10:32:43.05.

has implemented and will continue to implement E911 services consistent with the FCC's rules and orders applicable to wireless resellers.

Toll Limitation. In its 2012 Lifeline Reform Order, the FCC provided that toll limitation would no longer be deemed a supported service.¹⁹ “ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls.”²⁰ TracFone's Lifeline plan includes unlimited voice minutes. TracFone treats long distance minutes of use as any other usage and customers do not incur additional charges for toll services. For the foregoing reasons, the toll limitation requirement in 47 C.F.R. § 54.400(m) is not applicable to TracFone.

Broadband Internet Access Service

TracFone's mobile BIAS provides Lifeline customers with “the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service ...” in accordance with 47 C.F.R. § 54.400(l). TracFone provides BIAS to low-income consumers via Verizon Wireless's mobile broadband network.

¹⁹ See 2012 Lifeline Reform Order, ¶ 234.

²⁰ See *id.* ¶ 49.

C. TRACFONE WILL OFFER THE SERVICES DESIGNATED FOR SUPPORT USING ITS OWN FACILITIES

TracFone will offer the supported services of voice telephony service and BIAS using its own facilities.²¹ As a wholly-owned subsidiary of Verizon Wireless, an MNO, TracFone has its own facilities for purposes of the facilities requirement in Section 214(e)(1) of the Act.²²

D. TRACFONE WILL PROVIDE LIFELINE SERVICE THROUGHOUT ITS DESIGNATED SERVICE AREA

Pursuant to 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d), as an ETC, TracFone will provide service throughout the State of South Dakota, including on federally-recognized Tribal lands,²³ subject to coverage limits of the Verizon Wireless network. Pursuant to 47 C.F.R. § 54.202(a)(1)(i), the Company commits to provide service throughout its proposed service area on a timely basis to all customers making a reasonable request for service where facilities are available.²⁴ TracFone requests ETC designation that is statewide in scope to allow the Company to provide Lifeline service wherever it has wireless coverage. A list of the ZIP codes within TracFone's service area and a coverage map are attached as Exhibit 2.²⁵

²¹ See 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d).

²² See *Telecommunications Carriers Eligible for Universal Service Support et al.*, WC Docket No. 09-197, Order, DA 10-2433 (rel. Dec. 29, 2019) (finding that Virgin Mobile, as a wholly owned affiliate of Sprint Nextel (an MNO), owns Sprint Nextel's facilities for purposes of the facilities requirement in Section 214(e) of the Act).

²³ TracFone is providing a copy of this Application to the affected Tribal governments and Tribal regulatory authorities.

²⁴ See ARSD 20:10:32:43.01. TracFone's network coverage encompasses all areas within its proposed designated service area. Therefore, it will provide service within a reasonable period of time to all potential customers within its proposed designated service area.

²⁵ See ARSD 20:10:32:43(3) (requiring ETC petitioners to identify "the service area, including a detailed map, for which the designation is sought").

E. TRACFONE WILL ADVERTISE THE AVAILABILITY OF ITS LIFELINE SERVICES AND CHARGES USING MEDIA OF GENERAL DISTRIBUTION

TracFone will advertise the availability of its Lifeline service and the associated charges using media of general distribution, in accordance with the requirements of Section 214(e)(1)(B) of the Communications Act, and Section 54.201(d)(2) of the FCC's rules (47 C.F.R. § 54.201(d)(2)). TracFone will publicize the availability of Lifeline service throughout its designated ETC service area in a manner reasonably designed to reach those likely to qualify for the service. TracFone relies on various means to advertise its Lifeline service to eligible consumers, including advertisements found on its website and other Internet sites (including Facebook and Google) and direct mail campaigns.

F. TRACFONE WILL COMPLY WITH SERVICE REQUIREMENTS APPLICABLE TO THE SUPPORT IT RECEIVES

In accordance with 47 C.F.R. § 54.202(a)(1)(i), TracFone certifies that it will comply with the service requirements applicable to the support that it receives.²⁶

G. ABILITY TO REMAIN FUNCTIONAL IN EMERGENCY SITUATIONS

In accordance with 47 C.F.R. § 54.202(a)(2) and ARSD 20:10:32:43.03, TracFone certifies that it has the ability to remain functional in emergency situations, including having a reasonable amount of back-up power to ensure functionality without an external power source, the ability to reroute traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations. As described above, TracFone's service is provided on Verizon Wireless's network, which meets state-of-the-art network reliability standards.

²⁶ TracFone also certifies that it acknowledges that the FCC may require it to provide equal access to long-distance carriers in the event no other ETC is providing equal access within the proposed designated service area. *See* ARSD 20:10:32:43:06.

H. SATISFACTION OF CONSUMER PROTECTION AND CONSUMER SERVICE QUALITY STANDARDS

In accordance with 48 C.F.R. § 54.202(a)(3) and ARSD 20:10:32:43.04, TracFone certifies that it will comply with all applicable consumer protection and service quality standards related to the Lifeline universal service programs. As stated in 47 C.F.R. § 54.202(a)(3), a wireless applicant's commitment to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service (CTIA Consumer Code) will satisfy this consumer protection and service quality requirement. TracFone commits to fully complying with the CTIA Consumer Code.

I. TRACFONE IS FINANCIALLY AND TECHNICALLY CAPABLE

The FCC's rules require carriers petitioning for ETC designation to demonstrate financial and technical capability to comply with the Commission's Lifeline service requirements.²⁷ Among the factors to be considered are: a carrier's prior offering of service to non-Lifeline subscribers, the length of time the carrier has been in business, whether the carrier relies exclusively on Lifeline reimbursement to operate, whether the carrier receives revenues from other sources, and whether the carrier has been the subject of an enforcement action or ETC revocation proceeding in any state.²⁸

TracFone has successfully operated as a reseller of commercial mobile services – both non-Lifeline and Lifeline – for over 20 years. TracFone generates substantial revenues from its offerings of non-Lifeline services, and the vast majority of its customers purchase such services. To date, TracFone has not relied (and currently does not rely) exclusively on Lifeline reimbursement for TracFone's operating revenues. TracFone's financial support for its

²⁷ 47 C.F.R. § 54.202(a)(4).

²⁸ See 2012 Lifeline Reform Order, ¶¶ 387-388.

operations are further supported by its parent company, Verizon, which has the financial capability to ensure compliance with the Lifeline program requirements.

With respect to technical expertise, TracFone has demonstrated its capabilities over more than two decades of successful operation. TracFone has considerable experience complying with the requirements of the federal Lifeline program, and Verizon has the technical capability to comply with the Lifeline service requirements.

J. TERMS AND CONDITIONS OF PROPOSED LIFELINE OFFERING

TracFone has the ability to provide all services supported by the universal service program, as detailed in 47 C.F.R. § 54.101(a), throughout South Dakota. The Company further affirms that its Lifeline-supported voice services will meet or exceed the minimum service standards set forth for mobile voice service and mobile broadband service in 47 C.F.R. § 54.408, including as such standards are updated going forward. To the extent TracFone provides devices for use with Lifeline mobile broadband service, those devices will be WiFi enabled and TracFone will not impose an additional or separate tethering charge for mobile data usage below the minimum standard set forth in 47 C.F.R. § 54.408(b)(2). Furthermore, commencing December 1, 2023, to the extent that TracFone offers its consumers devices for use with its Lifeline mobile broadband service, at least 65 percent of those devices will be capable of being used as a hotspot.²⁹

Attached as Exhibit 3 is a description of TracFone's proposed Lifeline service offerings. TracFone's Lifeline plan includes 350 voice minutes, unlimited texts and 4.5 GB of data. Lifeline subscribers may purchase additional voice minutes or data. TracFone's Lifeline service includes voice mail, caller ID, 3-way calling, 911 access, and 411 directory assistance at no

²⁹ See 47 C.F.R. § 54.408(f).

additional charge. TracFone Lifeline customers may also receive benefits under the Affordable Connectivity Program. Customers receiving benefits under both programs will receive unlimited talk, text and data, with 10 GB of hotspot data, as well as a free smartphone.

K. TRACFONE WILL COMPLY WITH LIFELINE CERTIFICATION AND ANNUAL RE-CERTIFICATION REQUIREMENTS

TracFone has implemented internal policies and procedures that enable prospective subscribers to demonstrate their eligibility for Lifeline assistance to TracFone personnel, in compliance with the FCC's Lifeline rules.³⁰ When a subscriber seeks to enroll in Lifeline, whether on the basis of that subscriber's income eligibility or on the program-based eligibility criteria,³¹ TracFone does not seek reimbursement³¹ for providing Lifeline-supported service to that subscriber unless and until TracFone has received from the National Verifier notice that the prospective subscriber meets the relevant criteria.³²

All TracFone subscribers are re-certified within 12 months after the subscriber's service initiation date and within every 12 months thereafter by the National Verifier.³³ Further, the annual re-certification materials inform the subscriber that he or she is being contacted to re-certify his or her continuing eligibility for Lifeline, and if the subscriber fails to respond, he or she will be de-enrolled from the program.³⁴

³⁰ See 2012 Lifeline Reform Order, ¶ 61; 47 C.F.R. § 54.410(a).

³¹ See 47 C.F.R. § 54.409(a), (b).

³² See 47 C.F.R. § 54.410(b)(2), (c)(2). Any identification documentation collected is retained. See 47 C.F.R. § 54.410(b)(2)(iii), (c)(2)(iii); *see also Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (rel. Jun. 22, 2015), ¶ 224.

³³ 47 C.F.R. § 54.410(f).

³⁴ See 2012 Lifeline Reform Order ¶ 145.

L. TRACFONE HAS IMPLEMENTED MEASURES TO PREVENT WASTE, FRAUD, AND ABUSE

TracFone has implemented several processes to prevent waste, fraud and abuse related to the Lifeline program, including compliance with the following.

National Lifeline Accountability Database (NLAD). TracFone complies with the requirements of the NLAD and Section 54.404 of the Commission’s rules.³⁵ TracFone validates the applicant’s Lifeline eligibility with NLAD’s real-time API.³⁶ TracFone does not enroll or claim reimbursement for an applicant if the NLAD or the National Verifier cannot verify the identity of the applicant or the applicant’s status as alive, unless the applicant produces documentation to demonstrate his or her identity and status as alive to the National Verifier.³⁷

One-Per-Household Certification. TracFone has implemented the requirements of the 2012 Lifeline Reform Order to ensure that it provides only one Lifeline benefit per household through the use of its application and certification forms discussed above, internal database checks, and its marketing materials discussed below. If a prospective Lifeline subscriber provides the same address as a current Lifeline subscriber, the prospective subscriber completes the Independent Economic Household Worksheet (IEH Worksheet) via the National Verifier Consumer Portal. In addition, TracFone personnel are trained to emphasize the “one Lifeline phone per household” restriction in their direct communications with prospective subscribers.

³⁵ 47 C.F.R. § 54.404(b).

³⁶ See 2012 Lifeline Reform Order, ¶ 203. TracFone transmits to the NLAD the information required for each new Lifeline subscriber. See *id.* ¶¶ 189-195; 47 C.F.R. § 54.404(b)(6). Further, TracFone updates each subscriber’s information in the NLAD within ten (10) business days of any change, except for de-enrollment, which will be transmitted within one (1) business day. See 47 C.F.R. § 54.404(b)(8), (10).

³⁷ See 47 C.F.R. § 54.404(b)(12).

Training materials describe the limitation to one Lifeline phone per household and the need to ensure that the prospective subscriber is informed of this restriction.

Marketing Materials. TracFone includes the following information regarding its Lifeline-supported offerings on all relevant marketing materials: (1) it is a Lifeline-supported service; (2) Lifeline is a government assistance program; (3) the service is non-transferable; (4) only eligible consumers may enroll in the program; (5) the program is limited to one discount per household; (6) documentation is necessary for enrollment; and (7) TracFone's name (as the ETC).³⁸ These statements are included in all print, audio, video, and electronic materials (including social networking media) used to describe or enroll subscribers in the service offering, as well as application and certification forms.³⁹ This also includes TracFone's websites and any other material describing the service offering.⁴⁰ In addition, TracFone's application/certification forms (developed by USAC) state that consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program.⁴¹

Non-Usage. TracFone also: (1) informs its customers of the need to use the service at least once every thirty (30) days as required by 47 C.F.R. § 54.407(c)(2); (2) provides notice to subscribers on 30 days of non-usage that they must use the service within 15 days or their service will be terminated as required by 47 C.F.R. § 54.405(e)(3); and (3) requires the customers to activate their Lifeline service as required by 47 C.F.R. § 54.407(c)(1).

³⁸ See 2012 Lifeline Reform Order, ¶ 275; 47 C.F.R. § 54.405(c).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ See 47 C.F.R. § 54.410(d)(1).

Enrollment Representatives. TracFone complies with the 2019 Lifeline Reform Order and Section 54.406 of the FCC’s rules regarding enrollment representatives.⁴² Specifically, TracFone (1) requires all TracFone personnel who meet the definition of an “enrollment representative”⁴³ register for a RAD ID before they can provide information directly or indirectly to NLAD or the National Verifier; (2) has policies and procedures to ensure that enrollment representatives do not use another person’s RAD ID to enroll Lifeline subscribers, or access the NLAD or the National Verifier; and (3) has policies and procedures to ensure that enrollment representatives re-certify their status with USAC on an annual basis and update registration information within thirty (30) days of any change in such information.⁴⁴ TracFone does not offer or provide to enrollment representatives or their direct supervisors any commission compensation that is based on the number of consumers who apply for or are enrolled in the Lifeline program with TracFone.⁴⁵

Training. All customer-facing employees and agents, including enrollment representatives, must demonstrate their understanding of TracFone’s rules and policies by completing TracFone’s Lifeline training and certifying that they have received the Compliance

⁴² See *Bridging the Digital Divide for Low-Income Consumers; Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support*, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 19-111 (rel. Nov. 14, 2019) (2019 Lifeline Reform Order); 47 C.F.R. § 54.406.

⁴³ See 47 C.F.R. § 54.400(p) (defining an “enrollment representative” as “[a]n employee, agent, contractor, or subcontractor, acting on behalf of an eligible telecommunications carrier or third-party entity, who directly or indirectly provides information to the Universal Service Administrative Company or a state entity administering the Lifeline Program for the purpose of eligibility verification, enrollment, recertification, subscriber personal information updates, benefit transfers, or de-enrollment.”).

⁴⁴ See 47 C.F.R. § 54.406(a).

⁴⁵ See 47 C.F.R. § 54.406(b).

Manual and will follow the procedures to ensure compliance. Further, TracFone employs a dedicated compliance officer to oversee training and compliance matters for its Lifeline service.

M. TRACFONE WILL COMPLY WITH ALL APPLICABLE REGULATIONS IMPOSED BY THE COMMISSION

TracFone commits to complying with all the rules and regulations that the Commission may lawfully impose upon the Company's provision of service contemplated by this Petition, including any reporting requirements set by the Commission. TracFone will answer any questions or present additional testimony and other evidence about its services within the state upon the Commission's request.

IV. DESIGNATING TRACFONE AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST

As noted above, TracFone seeks designation as an ETC throughout the State of South Dakota, which includes rural and non-rural areas. Consequently, the Communications Act requires that the Commission determine that TracFone's designation as an ETC would serve the public interest.⁴⁶ The FCC has identified factors to be considered in determining whether designation of an additional ETC would serve the public interest. Those factors include: 1) the benefits of increased competitive choice; 2) the unique advantages of the applicant company's service offerings; and 3) the impact on the USF.⁴⁷ As described in the following paragraphs, TracFone meets each of these public interest criteria.

A. THE BENEFITS OF INCREASE COMPETITIVE CHOICE

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than five

⁴⁶ See 47 U.S.C. § 214(e)(2); ARSD 20:10:32:43.07.

⁴⁷ See Public Interest Order, ¶¶ 18, 44 and 54; ARSD 20:10:32:43.07.

decades.⁴⁸ Indeed, the FCC has determined that “designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”⁴⁹ TracFone’s designation as a Lifeline-only ETC will provide a valuable alternative to the existing Lifeline services available in South Dakota.

TracFone believes that many South Dakota households, including low-income Lifeline-eligible households, view the portability and convenience of wireless voice and data services as a modern necessity, not a luxury. However, only 8 percent of eligible South Dakota households are participating in the Lifeline program.⁵⁰ This low participation rate demonstrates that the current Lifeline service offering in South Dakota are not meeting the needs of low-income South Dakota households.

Allowing TracFone to offer Lifeline service in South Dakota will serve the public interest because it will introduce more competition in the provision of mobile Lifeline service. South Dakota Lifeline households overwhelmingly choose wireless Lifeline service over wireline Lifeline service. Increased competition leads to additional consumer choices and delivery of greater value to consumers. TracFone’s bundled mobile voice and broadband data Lifeline service will provide consumers with alternative choices that are convenient and affordable and that allows consumers to communicate and to access the Internet both from their residences and when they are away from their homes. TracFone’s designation as an ETC will also benefit South Dakota consumers because Lifeline services provided by TracFone will help assure that quality

⁴⁸ See, e.g., *Specialized Common Carrier Services*, 29 FCC2d 870 (1971).

⁴⁹ See *Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-46, Memorandum Opinion and Order, DA 00-2896, ¶ 17 (rel. Dec. 26, 2000).

⁵⁰ See USAC, Program Data, Lifeline Participation, available at <https://www.usac.org/lifeline/resources/program-data/#Participation> (last visited Jan. 9, 2024) (estimating the 2023 Lifeline participation rate in South Dakota to be 8 percent).

services are available at “just, reasonable, and affordable rates” as envisioned in the Communications Act.⁵¹

B. ADVANTAGES OF TRACFONE’S LIFELINE PLAN

TracFone’s business model is predicated on providing easy-to-use, pay-as-you-go, affordable wireless telecommunications service to consumers to whom wireless service would be otherwise unavailable or unaffordable. TracFone offers consumers an opportunity to acquire wireless voice telephony service and BIAS with service features including caller ID, 3-way calling, voice mail, unlimited text messaging and all distance calling. Because TracFone’s Lifeline service requires no term contracts, no minimum service periods or volume commitments, no credit checks, and no early termination fees, the service will be available to everyone who is Lifeline-eligible irrespective of creditworthiness.

Under TracFone’s SafeLink Wireless Lifeline plan, eligible Lifeline customers in South Dakota will receive a bundled voice and data plan that includes 350 airtime voice minutes, unlimited text messaging and 4.5 GB of mobile broadband data provided at not less than 3G speed each month. Lifeline customers in South Dakota have the option of receiving a free smartphone from TracFone that is Wi-Fi-capable or they may also use their own smartphone and receive a SIM card. The voice portion of TracFone’s bundled data and voice Lifeline service includes unlimited texting, voicemail, caller ID, 3-way calling, national long distance calling without toll charges, and no charges for roaming.

TracFone’s bundled broadband data and voice plan will comply with the minimum service standards set forth in Section 54.408 of the FCC’s rules.⁵² Pursuant to the FCC’s rules, a

⁵¹ 47 U.S.C. § 254(b)(1).

⁵² 47 C.F.R. § 54.408.

bundled voice and broadband data service plan complies with the FCC's codified minimum service standards if either the voice portion or the broadband data portion of the plan meets the applicable minimum service standard.⁵³ In accordance with the FCC's minimum service standards for mobile broadband service, TracFone's SafeLink Wireless Lifeline plan offers 4.5 GB of mobile broadband data, and therefore, qualifies for federal broadband Lifeline support.⁵⁴

C. IMPACT ON THE UNIVERSAL SERVICE FUND

TracFone seeks ETC designation solely to enable it to offer Lifeline benefits to eligible low-income consumers in TracFone's service area in South Dakota. TracFone does not seek access to funds from the federal or state USF for the purpose of obtaining high cost support. Furthermore, any increase in the size of the fund would be outweighed by the benefit of increasing eligible participation in the Lifeline program, furthering the statutory goal of providing access to low-income consumers.

ETCs providing Lifeline service only receive USF support for those customers they enroll and who receive Lifeline service. If TracFone acquires Lifeline customers currently served by other ETCs, TracFone will gain the Lifeline support for those customers. However, the ETCs losing Lifeline customers to TracFone will lose the support. Accordingly, TracFone will only increase the amount of USF Lifeline funding in situations where it obtains new Lifeline customers, *i.e.*, customers not currently enrolled in other ETCs' Lifeline programs.

⁵³ See 47 C.F.R. § 54.401(b).

⁵⁴ 47 C.F.R. § 54.408(b)(2); see also *Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount*, Public Notice, DA 23-621 (July 21, 2023).

V. ANTI-DRUG ABUSE CERTIFICATION

In accordance with Section 5301 of the Anti-Drug Abuse Act of 1988, TracFone certifies that no party to the Petition is subject to denial of federal benefits, including FCC benefits.

VI. CONCLUSION

Based on the foregoing, TracFone fulfills the requirements for designation as an ETC for the purpose of providing Lifeline service in South Dakota. Accordingly, TracFone respectfully requests that the Commission grant its Petition for designation as an ETC.

Respectfully submitted,



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