



THE NAVAJO NATION

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STATEMENT OF
RUSSELL BEGAYE
PRESIDENT OF THE NAVAJO NATION
BEFORE THE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
September 14, 2017
“FCC’s Lifeline Program: A Case Study of Government Waste and Mismanagement”

Chairman Johnson and Members of the Committee, thank you for the opportunity to provide this Statement concerning your September 14, 2017 hearing entitled: “FCC’s Lifeline Program: A Case Study of Government Waste and Mismanagement.” I would like to make three points in response to the testimony presented:

- 1) The Navajo Nation provides the best case study of how the Lifeline Program has worked effectively and efficiently to increase telephone penetration;
- 2) The Lifeline reforms initiated in 2012 have disproportionately harmed Native Americans, the most vulnerable population in the United States;
- 3) The National Verifier will exacerbate this disproportionate impact unless Indian tribes participate in the verification process.

At the hearing on September 6, 2017, witnesses testified that the Lifeline Program is ineffective, inefficient, and questioned whether the entire program should be eliminated. Furthermore, it was stated that there is no evidence that the Lifeline program actually increases telephone penetration and use and that most Lifeline subscribers would continue to pay for service even if their subsidies were removed. Witnesses including the Government Accountability Office (GAO), stated a new National Verifier system will improve the program. As I will discuss, all of those statements are incorrect and assumptions, when looking from the Navajo perspective.

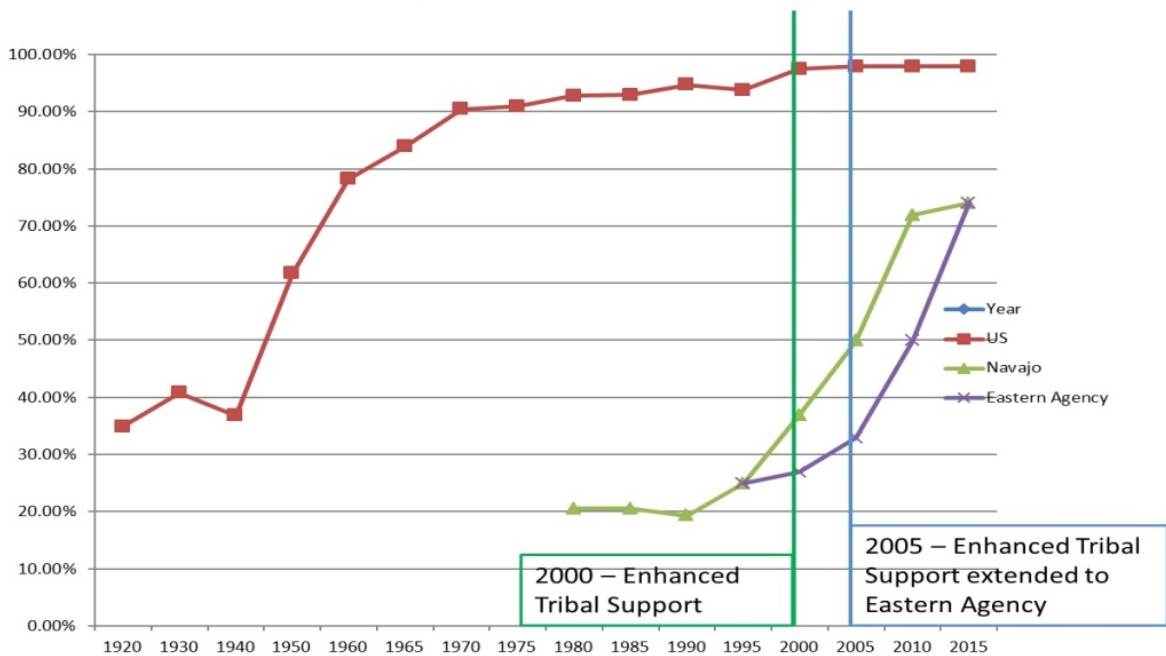
- 1) **The Navajo Nation provides the best case study of how the Lifeline Program has worked effectively and efficiently to increase telephone penetration**

As the largest land based Indian tribe, the Navajo Nation consists of 17 million acres (26,111 square miles) in portions of three states (Arizona, New Mexico, and Utah). The Navajo Nation is comparable in size to West Virginia. If the Navajo Nation were a state, the Navajo Nation would rank as the 4th smallest in population density; with only Montana (6.5 persons per square mile), Wyoming (5.4) and Alaska (1.2) being less densely populated.

On Navajo, we struggle to combat other demographics that are barriers to Federal and state communications policies that are not focused on serving Native Americans. The Navajo Nation has a 42 percent unemployment rate, and median family income that is half of the state of Arizona, where the majority of the Navajo Nation is located. There are 38 percent of Navajo people that live below the federal poverty line. Just 20 years ago, telephone penetration on the Navajo Nation stood at 25% meaning approximately one in four Navajos had a phone. It was only after the FCC established Enhanced Tribal Lifeline (“Tier 4”) Support that telephones began appearing on the Navajo Nation with any regularity. The chart (Figure I) below shows the slow but steady progress that Lifeline made.

Figure I:
Telephone Penetration in U.S. and Navajo Nation by Decade

Comparison of U.S. Telephone Penetration and Navajo Nation Telephone Penetration



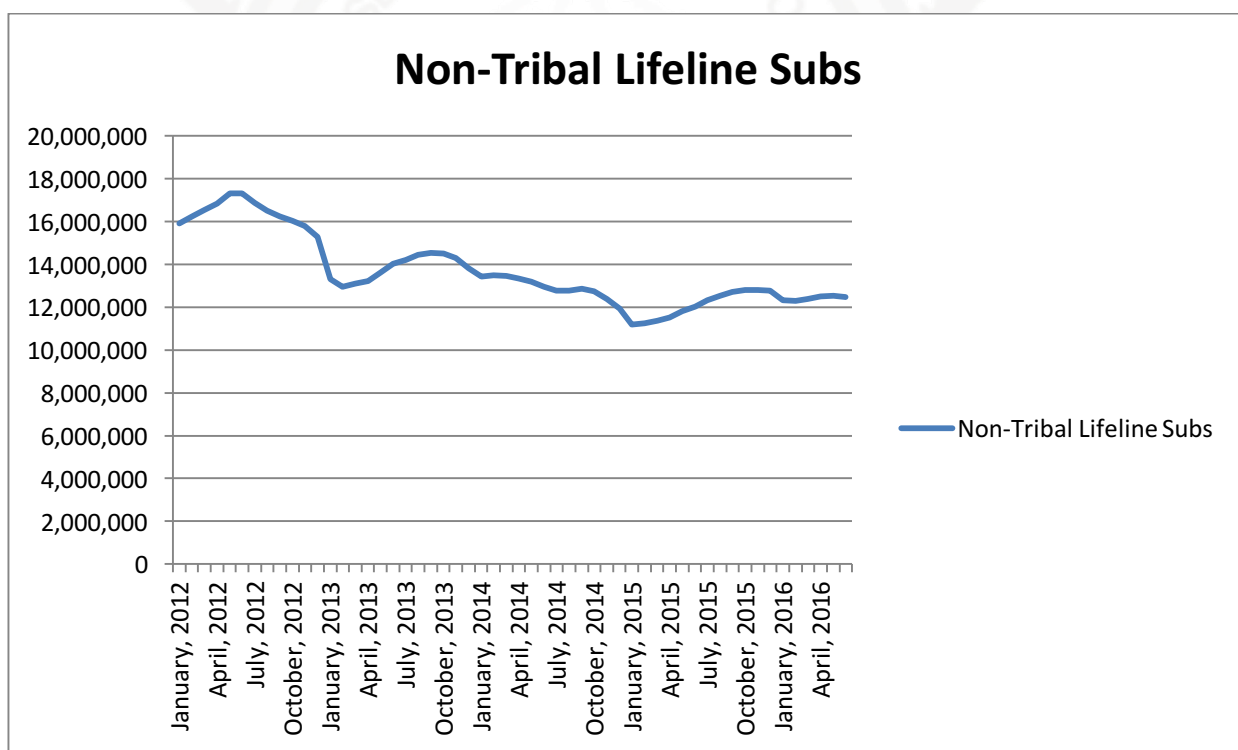
It is important to point out that the US remains relatively flat from 1965 to 2015 when compared to Navajo, where there are large increases in telephone penetration. Also, it is critical to note that initially the FCC did not extend Tier 4 support to the Navajo Eastern Agency (New Mexico) because of the land status inconsistencies in that particular region. Telephone penetration continued to languish in the Eastern Agency until 2005, when the FCC issued an order extending Tier 4 Support to the Eastern Agency.¹ There can be no better “controlled” study to demonstrate the importance of the Lifeline Program to bring telephone service to those who had never had a telephone. It was only after the FCC extended Tier 4 Support that carriers began to build out large portions of the Navajo Nation that were without service. Without the stable subscriber base that Lifeline provides, no carriers could close the business case to build on Navajo Nation. Remove those subsidies, and carriers can’t afford to continue offering service to Navajo people.

¹ *Smith Bagley, Inc.*, FCC 05-77 in WC Docket No. 03-109, released March 20, 2005.

2) **The Lifeline reforms initiated in 2012 have disproportionately harmed Native Americans, the most vulnerable population in the United States.**

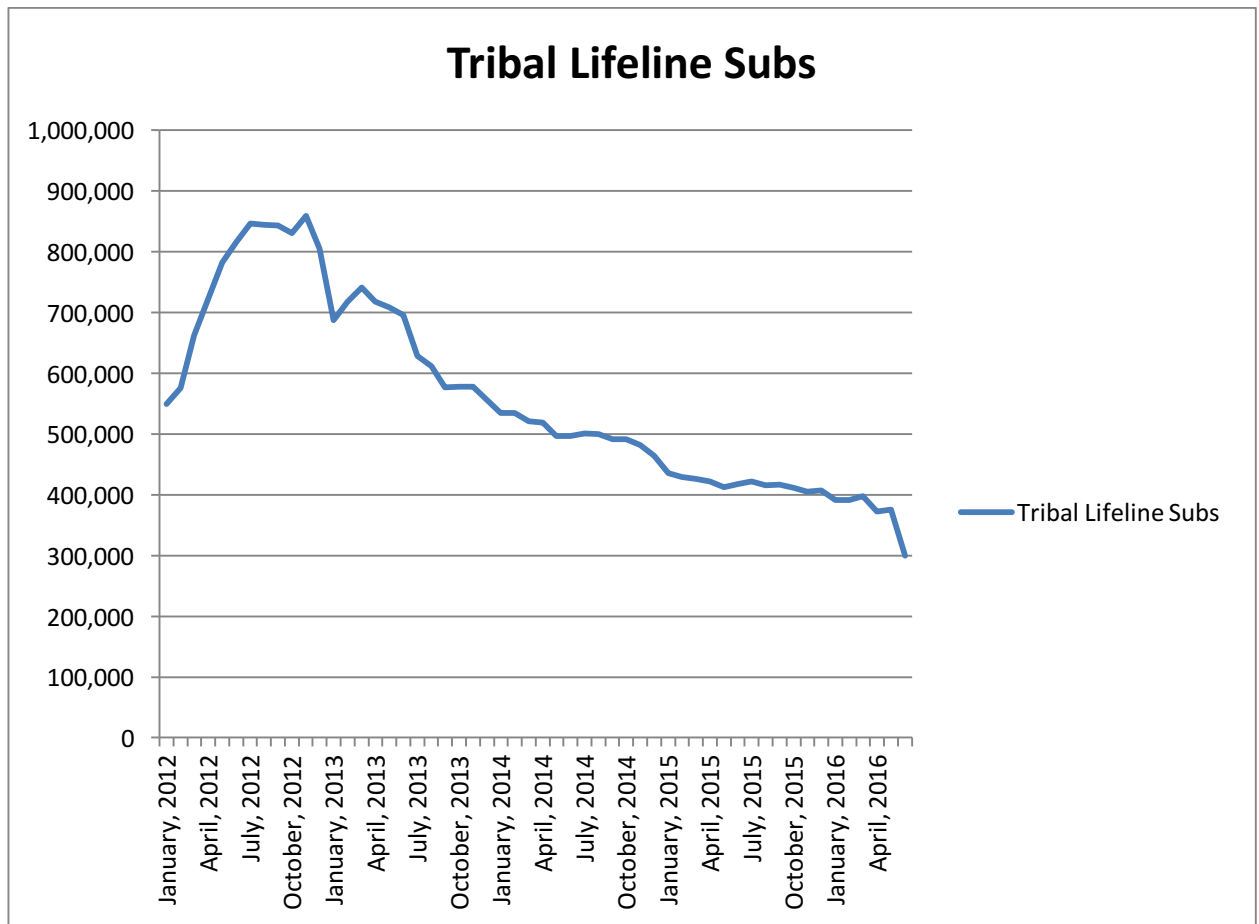
Since the *2012 Lifeline Reform Order*, Lifeline subscribership has plummeted in Indian Country. According to the *2016 Universal Service Monitoring Report*,² since the height of enrollment in the Lifeline Program in May, 2012, the overall rolls have been reduced by more than 35% nationwide. However, Lifeline participation in Indian Country has been reduced by over 65%, as depicted in the table at the end of this document (Figure III). Moreover, whereas non-Tribal lifeline subscribers rebounded slightly after January, 2015 (and increased by 1.3 million subscribers), Lifeline subscription in Indian Country continues in a tailspin, as depicted in the graphs below (Figure II).³

Figure II:



² This report is available for download at: <http://www.fcc.gov/encyclopedia/federal-state-joint-board-monitoring-reports>.

³ The attached charts and graphs are derived from the *2016 Universal Service Monitoring Report*, p. 28, Table 2.6.



If Oklahoma eligible telecommunications carriers (ETCs) are set aside, the 13 ETCs fined for violating the Lifeline rules by signing up ineligible and fictitious subscribers are not operating in Indian Country. Native Americans are not the source of the “waste, fraud and abuse,” yet are disproportionately being dropped from the Lifeline Program.

Through process of elimination, it is most likely because of the recertification process. I speak from experience when I say that this federally recommended and endorsed “redtape” philosophy has a negative direct impact on a normal day’s freedom for Navajo people. So much so that Chairman Pai had to recently intervene with USAC on behalf of one carrier serving the Navajo Nation that simply couldn’t complete the certification process for such a large population in the time prescribed under

USAC's rules. If Congress wants a truly fair Lifeline Program, it should order the FCC to study this disparity and enact changes that do not have the effect of discriminating against a single community.

According to U.S. census statistics, Native Americans as a group have the highest percentage living below the poverty line (28 percent), almost twice the national average of 14.3 percent.⁴ Nine states have poverty rates above 30 percent for Native Americans (Arizona, Maine, Minnesota, Montana, Nebraska, New Mexico, North Dakota, South Dakota, and Utah), and it is no surprise that this includes nine of the ten largest reservations.⁵ People qualify for Lifeline support if they are at or below 135% of the U.S. Poverty line. This is a clear indication that Native Americans living on reservations are even more likely to qualify for Lifeline support.⁶

While some of the disparity in Lifeline reduction rates might be because of non-financial changes to the Lifeline rules (including enforcing the "one phone per house" rule), that can't explain the reduction in Tribal Lifeline subscribers being twice that of non-Tribal Lifeline subscribers. The answer must lie within the recertification process.

The current recertification process, conducted by carriers, is onerous. Many Navajo Lifeline participants live 100 or more miles from the nearest store where they can interact with telephone carriers. Many live in areas with little cellular service, so calls from carriers trying to recertify them can't reach them and often times texts from carriers are dismissed as spam or marketing material. Thirty percent of Navajos don't even have electricity in their homes to charge their phones. Subscribers who don't use their phones for 60 days are automatically de-enrolled. Many ETCs have native speakers who can assist Tribal Lifeline subscribers through the process. Nonetheless, for a variety of reasons, including language, culture, and a distrust of providing anyone private information

⁴ See <https://www.census.gov/prod/2013pubs/acsbr11-17.pdf> (data through 2011).

⁵ U.S. Census Bureau (2000). U.S. Census Fact Finder. Washington, D.C.: U.S. Census Bureau.

⁶ *Id.*, p. 2.

about themselves, Native Americans are not getting recertified at alarming rates, even after many tribal communities have undertaken extensive education efforts for their tribal governments.

3) The National Verifier will exacerbate this disproportionate impact unless Tribes participate in the verification process.

At the September 6, 2017 hearing, several of those testifying indicated that the new National Verifier could greatly improve the accountability of carriers and the Lifeline Program. If the goal of the National Verifier is to find ways to reduce the rolls of Lifeline, then it will no doubt be a success. If the goal of the National Verifier is to establish a system that correctly determines eligibility, its implementation dooms it to utter failure. For example, according to the USAC website,⁷ New Mexico is one of the six “pilot” states that will be rolled out early next year, yet the databases that will be available from New Mexico to the National Verifier will only be SNAP and Medicaid. There is *no* indication that the National Verifier will have access to any Navajo Nation benefit program databases that will include for example a food distribution program that is administered by the Navajo Nation. For Navajos living on the Navajo Nation’s Eastern Agency located in New Mexico, that means there is a huge loophole in the criteria that is simple not going to be successful. The FCC’s 2016 Order stated:

“We direct USAC to seek the most cost effective and efficient means to incorporate electronic eligibility certification into the National Verifier wherever feasible. We expect USAC and the Bureau to work closely with the states, other federal agencies, and Tribal Nations to foster partnerships that will help the National Verifier develop the most efficient pathways to determining subscriber eligibility.”⁸

To my knowledge, the Navajo Nation government has not been contacted by USAC concerning gaining access to Navajo Nation databases that would determine eligibility. If the eligibility database for New Mexico only contains SNAP and Medicaid data, Navajos will be excluded from the automated

⁷ See <https://usac.org/li/tools/national-verifier/default.aspx>.

⁸ *In the Matter of Lifeline and Link Up Reform and Modernization, Third Report and Order, Further Report and order, and Order on Reconsideration*, ¶ 135 (WC Docket No. 11-42, April 27, 2016).

recertification process, that already has barriers. Instead, they will be subject to manual recertification in a process that is even more onerous than that imposed by the FCC in 2012.⁹ Rather than certifying that they remain eligible, Navajos will have to produce paperwork demonstrating that they qualify. The National Verifier Plan states that only English and Spanish will be used, so Navajo speaking subscribers will be further discriminated against.¹⁰

I suspect this will lead to the removal of hundreds, if not thousands, of Navajos who qualify for Lifeline, by not accounting for cultural appropriate services to provide a new and accurate delivery. Navajo people want to live on Navajo but they do not want more paperwork, more dangerous travel. Once again, the Lifeline Program is adopting measures that single out Native Americans for inequitable treatment. **Congress should seek to find out from USAC why they have ignored the FCC's directives to engage with Tribes.**

I suggest an alternative. The USAC must engage Indian tribes in this process, and utilize the expertise and Indian tribes' databases to certify eligibility and conduct the manual certification, if necessary. This can work. On August 22, 2017, at a FCC Tribal Consultation held on the Navajo, Chairman Pai heard from a representative of the Nez Perce Tribe in Idaho. The Nez Perce contracted with wireless ETCs serving the reservation to have the Tribe handle Lifeline recertification. The Nez Perce were able to recertify 98% of their Lifeline subscribers, and were able to confirm that the two percent that were no longer eligible had gained employment taking them above the income threshold, thus making the administration and verification process local. This is something that should be a model national policy goal for Indian policy and one that all should embrace.

⁹ See National Verifier Plan (July, 2017), at slides 47-48 (showing complexity of the process for a Native American to prove eligibility). <https://usac.org/res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf>.

¹⁰ National Verifier Plan, *supra* note 9, slide 105.

Indian tribes are going to need financial assistance in carrying out the administration of this process. The *Third Report and Order* directed USAC to pay for the National Verifier Program through its administrative resources. The USAC should provide funding in proportion to Native American participation in the Lifeline Program to reimburse Tribes for their participation in integrating their databases into the National Eligibility Database, and conducting manual eligibility verification, if necessary. It is vital that those conducting the manual eligibility verification be able to communicate in Navajo, which the Navajo government can do.

Next, USAC could provide the Navajo Nation with the training to conduct the necessary certifications. Finally, because of the land base and amount of individual participate in the Lifeline Program, an Indian tribe would need some flexibility in the timing on the certification process.

If the real goal of Lifeline reform is to ensure that only eligible subscribers receive Lifeline subsidies, then let's work together to make that happen, not set up a system where Native Americans are forced further across the Digital Divide. The Navajo Nation government stands ready to work with Congress, the FCC, the USAC, and the National Verifier to establish an effective Lifeline verification program that works for Navajo people.

Thank you again for the opportunity to submit this Statement.

Figure III:
Lifeline Participation Since 2012

Month/yr	Tribal Lifeline Subs	Non-Tribal Lifeline Subs	Total	% Tribal
January, 2012	549,258	15,908,572	16,457,830	3.34%
February, 2012	575,873	16,238,084	16,813,957	3.42%
March, 2012	662,135	16,534,059	17,196,194	3.85%
April, 2012	722,144	16,848,841	17,570,985	4.11%
May, 2012	782,131	17,317,869	18,100,000	4.32%
June, 2012	815,448	17,320,169	18,135,617	4.50%
July, 2012	846,735	16,864,804	17,711,539	4.78%
August, 2012	843,864	16,515,337	17,359,201	4.86%
September, 2012	842,986	16,233,523	17,076,509	4.94%
October, 2012	831,010	16,019,555	16,850,565	4.93%
November, 2012	858,420	15,780,413	16,638,833	5.16%
December, 2012	804,793	15,276,872	16,081,665	5.00%
January, 2013	687,500	13,303,601	13,991,101	4.91%
February, 2013	717,866	12,944,960	13,662,826	5.25%
March, 2013	740,955	13,107,807	13,848,762	5.35%
April, 2013	717,869	13,230,187	13,948,056	5.15%
May, 2013	708,103	13,602,507	14,310,610	4.95%
June, 2013	695,699	14,016,431	14,712,130	4.73%
July, 2013	628,293	14,220,097	14,848,390	4.23%
August, 2013	611,198	14,445,164	15,056,362	4.06%
September, 2013	576,375	14,522,851	15,099,226	3.82%
October, 2013	578,042	14,498,009	15,076,051	3.83%
November, 2013	577,593	14,291,510	14,869,103	3.88%
December, 2013	555,234	13,825,919	14,381,153	3.86%
January, 2014	534,297	13,440,283	13,974,580	3.82%
February, 2014	534,514	13,500,445	14,034,959	3.81%
March, 2014	521,050	13,451,544	13,972,594	3.73%
April, 2014	518,193	13,353,226	13,871,419	3.74%
May, 2014	496,124	13,195,365	13,691,489	3.62%
June, 2014	497,065	12,960,680	13,457,745	3.69%
July, 2014	501,207	12,768,490	13,269,697	3.78%
August, 2014	499,504	12,760,942	13,260,446	3.77%
September, 2014	491,794	12,850,377	13,342,171	3.69%
October, 2014	490,887	12,738,688	13,229,575	3.71%
November, 2014	481,829	12,377,023	12,858,852	3.75%
December, 2014	463,711	11,937,157	12,400,868	3.74%
January, 2015	435,069	11,185,755	11,620,824	3.74%

February, 2015	428,917	11,232,909	11,661,826	3.68%
March, 2015	426,328	11,365,933	11,792,261	3.62%
April, 2015	421,320	11,528,461	11,949,781	3.53%
May, 2015	412,426	11,807,905	12,220,331	3.37%
June, 2015	417,384	12,025,179	12,442,563	3.35%
July, 2015	421,869	12,323,680	12,745,549	3.31%
August, 2015	415,091	12,544,240	12,959,331	3.20%
September, 2015	416,913	12,709,537	13,126,450	3.18%
October, 2015	411,406	12,815,696	13,227,102	3.11%
November, 2015	405,301	12,786,852	13,192,153	3.07%
December, 2015	407,253	12,756,858	13,164,111	3.09%
January, 2016	390,984	12,320,964	12,711,948	3.08%
February, 2016	391,732	12,293,281	12,685,013	3.09%
March, 2016	397,651	12,369,189	12,766,840	3.11%
April, 2016	372,256	12,494,820	12,867,076	2.89%
May, 2016	375,290	12,533,397	12,908,687	2.91%
June, 2016	299,965	12,473,765	12,773,730	2.35%
Maximum	858,420	17,320,169	18,135,617	5.35%
Minimum	299,965	11,185,755	11,620,824	2.35%
Variance	65.06%	35.42%	35.92%	