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DEPARTMENT OF HAWAIIAN HOME LANDS**

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**Comments of the Department of Hawaiian Home Lands, State of Hawaii
On
The Notice of Proposed Rulemaking by the Federal Communications Commission on the
Lifeline Program
WC Docket Nos. 17-287, 11-42, and 09-197**

Background

The lands that are administered by the Department of Hawaiian Home Lands, an agency of the State of Hawaii, were set aside by the United States in 1921 under the authority of the Hawaiian Homes Commission Act of 1921 when Hawaii was a Territory of the United States. The Act provided authority for approximately 203,500 acres of land on the five principal islands of Hawaii to be set aside for the purpose of providing a permanent homeland for native Hawaiians and to enable homesteading, the development of agrarian and pastoral lands, and aquaculture by native Hawaiians. The Hawaiian home lands were to be held in trust by the United States.

Consistent with Federal policy also found in subsequent acts of the U.S. Congress which recognized the inherent sovereignty of the indigenous, native people of the United States, such as the Indian Reorganization Act of 1934 and the Alaska Indian Reorganization Act of 1936, the Hawaiian Homes Commission Act contained a blood quantum definition for purposes of eligibility for an assignment of land.

Similar to the lands set aside for the establishment of Indian reservations in the continental United States, the lands set aside for native Hawaiian homelands were isolated from more highly-populated areas, and in many instances, were of poor quality for the development of home sites as well as for agrarian and pastoral uses.

Thirty-eight years after the enactment of the Hawaiian Homes Commission Act, in 1959, Hawaii became the 50th State to enter the Union of States. At that time, pursuant to the Hawaii Admissions Act, the United States' trust responsibility for the Hawaiian home lands was assumed and shared by the State of Hawaii.

As the U.S. population grew, much like Indian country in the continental United States, towns and cities began to expand into areas in Hawaii that were previously distant from high-density population centers, areas such as the Hawaiian home lands.

Also, similar to native lands on the U.S. continent, because the Hawaiian home lands were segregated from other lands and did not have the benefit of ready access to the typical sources of economic growth nor the ability to attract capital investment, the home lands remained isolated from the dominant growing economies and urban expansion.

Accordingly, one of the challenges associated with the proposed changes to the Lifeline program is the categorization of areas as either urban or rural, when a more accurate characterization of the Hawaiian home lands areas is that the lands and the households located on those lands remain to be under-served areas.

Administration of Tribal Lands

While the Hawaiian home lands are more similar than different from lands under the jurisdiction of tribal governments in Indian country and appropriately come within the definition of tribal lands, and both the United States and the State of Hawaii retain specific responsibilities for the Hawaiian home lands, it is the Department of Hawaiian Home Lands, an agency of the State of Hawaii, that administers tribal lands (Hawaiian home lands) in the State of Hawaii.

Thus, in its capacity as an agency of the State of Hawaii, the Department of Hawaiian Home Lands, the Department defers to the State of Hawaii to provide comments on issues related to the designation of eligible telecommunications carriers, and the role of such carriers in providing both voice-only and broadband services in the State generally.

However, with regard to how proposals affecting native Hawaiian households located on the Hawaiian home lands can best be assessed, the Department's daily interactions with native Hawaiians residing on the Hawaiian home lands as well as the Department's responsibilities for the administration of State and Federal programs serving the Hawaiian home lands include not only the collection of data relevant to the Lifeline program and other FCC initiatives that are germane to the issues implicated in the Commission's notice of proposed rulemaking, but also consultation with the affected native Hawaiian resident population on the home lands on issues such as subscriber recertification's, independent economic household forms, and maximum discount level.

Commission Initiatives

The Department commends the FCC's efforts to address the policy initiatives of:

- (1) a focus on the Lifeline program in terms of supporting affordable communications service for the nation's low-income households and on improving the economic incentives of providers serving them and reexamining the Lifeline program's support structure to encourage affordable access to high quality services for low-income consumers;
- (2) ensuring that service providers have appropriate incentives to deploy and provide services to these populations and thereby further the Commission's efforts to bring digital opportunity to low-income Americans who have not yet adopted broadband and low-income Americans residing in rural or rural tribal areas that typically experience difficulty in obtaining access to affordable, quality broadband, and the Commission's seeking of comments on actions the Commission could take to create better economic incentives for providers participating in the Lifeline program, as well as the Commission's seeking of comments on how those incentives would impact the program's effectiveness at reaching certain subsets of the low-income population;
- (3) the Commission's seeking of comments on how the Commission could leverage the Lifeline program to encourage broadband deployment in areas that have found themselves on the wrong side of the digital divide on the basis that where a provider has already invested in building a broadband-capable network, that provider often has incentives to create mutually beneficial

offerings that make affordable connectivity options available to low-income households within the network's footprint, and the Commission's seeking of comments on whether the Commission should shape its Lifeline support structure to provide enhanced support in areas where providers do not have sufficient incentives to make available affordable high-speed broadband service;

(4) the Commission's seeking of comments on whether and how the Commission should adopt rule changes to target Lifeline support to bring digital opportunity to areas that offer less incentive for deployment of high-speed broadband service, such as rural areas and rural Tribal areas which typically have higher percentages of broadband non-adopters compared to other areas and the well-documented findings that lower-income households have lower broadband adoption rates and lower in-home broadband connectivity rates compared to higher-income households, and because some have suggested that the Commission should therefore target Lifeline support primarily to non-adopters to improve the effectiveness and efficiency of the Lifeline program, the Commission's seeking of comments on whether the Lifeline program could better reach non-adopters of broadband by focusing Lifeline support in areas where providers need additional incentive to offer high-speed broadband service;

(5) the Commission's seeking of comments on whether and how the Commission should adjust the Lifeline support amount to encourage affordable broadband access for low-income consumers in rural areas, based on findings that low-income consumers in rural or rural Tribal areas may have difficulty obtaining affordable, quality broadband service because service providers have less incentive to incur the costs to deploy advanced facilities or to provide a wide range of services at competitive prices in these areas, and additional findings that in rural areas, higher deployment costs can also lead to fewer service options and higher prices that disproportionately impact low-income consumers. The Department also supports the Commission's focus on rural Tribal areas in which affected stakeholders have suggested that the current Lifeline Tribal enhanced subsidy amount is insufficient to incentivize broadband deployment in rural Tribal areas, recognizing that although broadband deployment in both rural and rural Tribal areas is lagging compared to other areas, and that the current Lifeline program rules only provide targeted enhanced monthly Lifeline support (up to an additional \$25 per month) for Lifeline customers residing on Tribal lands; and

(6) the Commission's focus on Underserved Areas for which the Commission is seeking comments on whether and how the Commission should also target Lifeline support to bring digital opportunity to low-income areas where service providers have less incentive to invest in facilities or offer robust broadband offerings compared to other areas, given that recent reports argue that certain low-income areas experience less facilities deployment when compared to other areas, and that low-income consumers in those areas may experience increased difficulty obtaining affordable, robust communications services.