

United States Senate

WASHINGTON, DC 20510

November 28, 2017

COMMITTEES:
AGRICULTURE, NUTRITION AND FORESTRY
BANKING, HOUSING AND
URBAN AFFAIRS
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
INDIAN AFFAIRS
SMALL BUSINESS AND ENTREPRENEURSHIP

1027

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th St NW
Washington, D.C. 20554

Dear Chairman Pai,

I write regarding the recent changes to the Lifeline program that will directly impact tribal lands across the country. I am concerned that eliminating resellers from participating in the Tribal Lifeline program and the enhanced support that tribal residents receive will have a significant and lasting negative impact on low-income Native Americans who depend on the program to access affordable voice and internet services.

As you well know, the Lifeline program was created under President Reagan to help lower-income Americans access essential telephone services. As wireless phones and broadband internet access have been incorporated into the Lifeline program over the past 12 years, Lifeline has continued to be an avenue for them to participate in today's digital economy.

The Fourth Report and Order, which the Federal Communications Commission (FCC) approved on November 16 to alter the Lifeline program on tribal lands, stands to negatively affect over 1,000 tribal members in North Dakota when their eligible telecommunications carrier, a reseller of wireless service, is no longer permitted to offer Lifeline. Currently, there are no facility-based providers ready and able to serve those tribal locations, creating a service gap. Verizon and AT&T, which own the majority of spectrum and wireless equipment in North Dakota, have historically shown reluctance to participating in the Lifeline program leaving nearly the entire state without a wireless Lifeline provider. Decreasing the accessibility of wireless Lifeline will have a significant and disproportional impact on tribal members and younger people as they tend to rely solely on wireless services to connect to the internet.

Additionally, eliminating the enhanced support tribal residents receive for Lifeline services takes away vital assistance to a population where often over half live below the poverty line. To many tribal residents, the enhanced support was the only reason they were able to afford telecommunications services, and I am concerned that eliminating this support will prevent them from participating in the digital age.

I hope that you can answer the following questions as I continue to evaluate these changes:

- Did the FCC consult or seek public comment from tribes in North Dakota regarding these changes to the Tribal Lifeline program? If so, what was the response from North Dakota tribes?

- Was a cost-benefit analysis performed for this change and was the loss of service on tribal lands accounted for in this analysis? How many tribal members in North Dakota and across the country will lose service as a result of this Order?
- What plans does the FCC have to ensure those currently with service continue to receive affordable service despite the lack of a wireless Lifeline provider as defined under the new Order?

I appreciate you considering my concerns and look forward to your reply.

Sincerely,



Heidi Heitkamp
United States Senate

Cc:

Federal Communications Commissioner Michael O'Rielly
Federal Communications Commissioner Mignon Clyburn
Federal Communications Commissioner Jessica Rosenworcel
Federal Communications Commissioner Brendan Carr

**TURTLE MOUNTAIN
BAND OF CHIPPEWA INDIANS**
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Website: www.tmbci.org

FAX TRANSMISSION

DATE: 11/16/17

TO: Senator Heitkamp

FAX NUMBER: 202-224-7776

FROM: Acting Chairman Marcellais

SUBJECT: Proposed changes to tribal lands subsidies, Lifeline program

PAGES: 2 (Including this cover sheet)

COMMENT



If all pages are not received, please call (701) 477-2600 and ask for _____



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Chairman Ajit Pai
Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20554

RE: Proposed changes to tribal lands subsidies, Lifeline program.

Dear Chairman Pai:

On behalf of the Turtle Mountain Band of Chippewa Indians a tribe of approximately 34,000 members, we would respectfully request your reconsideration or removing the subsidy which serves rural area. Our Tribe is very rural and poor. 75% of our members live below the poverty level and at least 420 families rely upon the Lifeline program to reach all government services, 911, police and fire, and social services.

Changes to the Lifeline program will adversely affect many families with small children residing within our reservation, leaving them with no communications access. Please maintain the monthly subsidies for rural reservations, so that our community may continue to have access to emergency services and related programing.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Roman Marcellais".

Roman Marcellais
Acting Chairman

CC:
Tribal Government.



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 8, 2018

The Honorable Heidi Heitkamp
United States Senate
110 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Heitkamp:

Thank you for your letter concerning the changes to Tribal Lifeline support in the *2017 Lifeline Reform Order*. Closing the digital divide is my top priority. As Chairman, I have participated in three official Tribal consultations, made numerous visits to Tribal communities, and met with Tribal representatives. During these meetings and visits, I repeatedly heard that rural Tribal communities desperately need broadband investment. The Federal Communications Commission's recent changes to Tribal Lifeline support are designed to incentivize providers to deploy networks on rural Tribal lands and direct Tribal Lifeline support to areas where it is needed most, which in turn will improve the availability and affordability of advanced communications services in rural Tribal areas.

Suggestions that the changes in the *2017 Lifeline Reform Order* would cut off support to Tribal areas are simply false. All eligible Americans who apply will continue to receive support, including those using wireless resellers on Tribal lands. But enhanced support will now be tailored to better target those in need. As detailed in the order, the Commission always intended the enhanced support to provide "additional incentives to serve Tribal lands that, due to their extreme geographic remoteness, are sparsely populated and have few businesses." However, about 98% of residents of urban areas—including Tulsa and Reno—already have access to fixed broadband Internet access service at speeds of 25 Mbps/3 Mbps. And these urban population centers are overwhelmingly populated by non-Tribal members. As recognized by former California State Public Utilities Commissioner Catherine Sandoval, "it is not reasonable to give the Enhanced Lifeline support where there is no additional cost to providing service to the eligible tribal customers." And so the Commission, as suggested by the Public Utility Division of the Oklahoma Corporation Commission, redirected our enhanced support to "synchronize the support with the most pressing deployment needs."

Before making changes to Tribal Lifeline support, the Commission carefully considered the potential impact of the changes on Tribal Lifeline subscribers. All evidence suggests that these changes are likely to increase broadband buildout on Tribal lands and increase the service opportunities for Tribal members in North Dakota and across the country. Based on Commission staff estimates, 133 unique fixed facilities-based and 27 unique mobile facilities-based Lifeline providers offer service to customers on Tribal lands. In North Dakota, at least ten unique facilities-based Lifeline providers offer service to customers on Tribal lands, and approximately 60% of Tribal Lifeline subscribers in that state are served by a facilities-based provider. Only two wireless resellers currently claim Tribal Lifeline subscribers in North

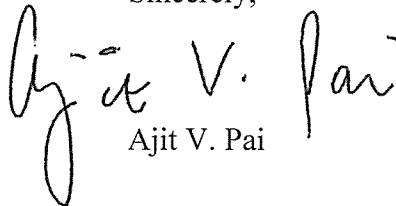
Dakota. And of course, subscribers may remain with the wireless reseller at a lower discount or switch to a facilities-based provider if they wish to continue receiving the enhanced monthly benefit.

As you may know, the Commission engaged in a robust consultation process before proceeding with these changes to the Tribal Lifeline program. The Commission sought comment on these changes in 2015. The Commission's decision to limit enhanced support to carriers reinvesting in Tribal communities received strong support from many Tribes and those that have built facilities on Tribal lands. Tribal commenters as diverse as the Navajo Nation, the Sovereign Councils of Hawaiian Homelands Assembly, Gila River Telecommunications, the Coeur D'Alene Tribe, the Affiliated Tribes of Northwest Indians, Mescalero Apache Telecommunications, the San Carlos Apache Telecommunications Utility, the Red Lake Band of Chippewa Indians, and the Alutia Village Council all commented in support of the Commission's proposals, and Commission staff consulted with Tribes in 2015 and 2016 on those proposals.

Tribal commenters from North Dakota also weighed in on the 2015 Notice of Proposed Rulemaking. The Standing Rock Sioux Tribe, for example, emphasized the need for Lifeline and Link Up because of the lack of adequate telecommunications infrastructure and poor economic conditions on its reservation.¹ The Sioux Tribes of the Upper Great Plains' comments explained that the lack of broadband infrastructure is the most significant barrier to adequate telephone and broadband service on Tribal lands and requested that the Commission consult directly with the Sioux Tribes to target federal assistance to meet their unique needs.² The changes to Tribal Lifeline support seek to address these deployment issues by incentivizing providers to build networks on rural Tribal lands.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Pai

¹ Standing Rock Sioux Tribe and Standing Rock Telecommunications, Inc. Comments, WC Docket No. 11-42 et al., at 1-2 (July 28, 2015).

² Sioux Tribes of the Upper Great Plains Comments, WC Docket No. 11-42 et al., at ii, 1-2 (July 22, 2015).