

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

In the Matter of

Petition of Fond du Lac Communications, Inc.
for Designation as an Eligible
Telecommunications Carrier pursuant to Section
214(e)(6) of the Communications Act of 1934,
as Amended

Connect America Fund

WC Docket No. 09-197

WC Docket No. 10-90

**SUPPLEMENT TO PETITION OF FOND DU LAC COMMUNICATIONS, INC.,
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

Pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”), Fond du Lac Communications, Inc. (“FDLCI”), respectfully submits this Supplement to its pending Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) on Fond du Lac Band of Lake Superior Chippewa (“Band”) Reservation areas in Carlton and St. Louis Counties, Minnesota, and specifically in all areas in which FDLCI was the winning bidder in the Connect America Fund II (“CAF II”) Auction 903 (“Auction 903”), as well as in certain additional service areas.

FDLCI filed its original Petition for Designation as an ETC with the Commission on September 13, 2018 (“FDLCI Petition”), in the above-captioned dockets. This Supplement is being submitted for the purposes of both providing additional information, as well as making additional certifications concerning the provision of Lifeline-only service.

FDLCI requests that the Commission accept this Supplement to the FDLCI Petition because, as discussed in further detail below, FDLCI’s designation as a Lifeline-only ETC in the areas where FDLCI will not receive CAF II support will enable FDLCI to make available competitive low-income service offerings to the Band’s members and other customers throughout

the Reservation, not just those who reside in FDLCI's CAF II Auction 903 winning areas.

1. Minimum Service Standards.

The Commission has adopted minimum service standards that must be met by fixed and mobile broadband service providers in order to receive Lifeline support.¹ FDLCI will satisfy all the applicable standards adopted by the Commission, and will certify its compliance with these standards in accordance with the Commission's rules.²

Specifically, FDLCI will comply with the minimum service standards for speed and data usage allowances that apply to fixed broadband services,³ as these standards are updated annually and published in a Commission Public Notice.⁴ In addition, FDLCI will ensure that all devices it provides to customers in connection with its provision of broadband service will be Wi-Fi enabled.⁵

2. Consumer Protection and Service Quality Standards.⁶

FDLCI will comply with the same type of standards that apply to other Tribal telecommunications carriers that have received an ETC designation from the FCC.⁷ Specifically, FDLCI will follow the approach taken by Hopi Telecommunications, Inc.⁸

As a company owned by the Band, FDLCI will operate under terms and conditions that afford its customers, many of whom are Band members, with the consumer protections and service quality standards that will be in their best interest. FDLCI will develop such standards and rules that follow Minnesota Public Utilities Commission ("MPUC") rules for telecommunications carriers, even though FDLCI is not under the jurisdiction of the MPUC.

¹ See *Bridging the Digital Divide for Low-Income Consumers*, Fourth Report and Order, 32 FCC Red 10475 (2017); 47 C.F.R. § 54.408.

² 47 C.F.R. § 54.408(d)(4).

³ 47 C.F.R. § 54.408(b)(1).

⁴ 47 C.F.R. § 54.408(c)(1).

⁵ 47 C.F.R. § 54.408(f)(1).

⁶ 47 C.F.R. § 54.202(a)(3).

⁷ See FDLCI Petition at 13.

⁸ See WC Docket No. 10-90, WC Docket No. 11-42 (Hopi Telecommunications, Inc.).

These initial provisions may be modified from time to time with the approval of, or at the request of, the Band's Reservation Business Committee (*i.e.*, the Tribal Council). Other obligations include, but are not limited to, truth-in-billing requirements and CPNI, Red Flag Rules and other applicable federal requirements governing the protection of customers' privacy.

3. Financial and Technical Capability to Provide Lifeline Service.⁹

FDLCI is a wholly-owned business enterprise of the Fond du Lac Band of Lake Superior Chippewa, which has the financial and technical capability to provide Lifeline service in those portions of its ETC service area for which FDLCI will not receive any CAF II support in Auction 903.¹⁰ In March 2018, FDLCI began keeping separate financial records. However, the Band's financial resources are available to cover its wholly-owned business unit. Therefore, FDLCI certifies that it is financially qualified to provide, and intends to provide, broadband services meeting the Commission's requirements in those portions of its ETC service area for which FDLCI will not receive any CAF II support in Auction 903.

4. FDLCI Will Advertise the Availability of Its Low-Income Offerings and Charges for Such Offerings Using Media of General Distribution.¹¹

FDLCI commits to advertising the availability of, and the charges for, Lifeline service throughout the Reservation, including those portions of its ETC service area for which FDLCI will not receive any CAF II support in Auction 903, utilizing local media and promotional events that are applicable and appropriate for the Band.¹² A link on the Band's website¹³ will advertise FDLCI and its services. Since many potential users reside in relatively remote communities, access to generally recognized electronic and print media is severely limited. The methods of

⁹ 47 C.F.R. § 54.202(a)(4).

¹⁰ See FDLCI Petition at 14.

¹¹ 47 C.F.R. §§ 54.401-54.423, 54.405(b).

¹² See FDLCI Petition at 11-12.

¹³ www.fdlrez.com.

advertising may include local and Tribal newspapers (*e.g.*, the Nahgahchiwanong Dibahjimowinnan, with a printing of 2,650 and direct mailing to approximately 1,600 Band members); notices on the Band website; radio announcements on the Band's radio stations (*i.e.*, WGZS(FM), WKLK(AM), WKLK-FM and WMOZ(FM)), which broadcast throughout the Reservation; notices in Tribal offices and public benefits offices; electronic newsletters; billing inserts; and publicity at Tribal monthly meetings, and public exhibits. FDLCI will publicize the availability of supported services to reach all of the residents in its service area, including those portions of its ETC service area for which FDLCI will not receive any CAF II support in Auction 903, and ensure that customers are aware of the available supported services, particularly low-income customers. FDLCI commits to explaining in its marketing that Lifeline service is a government benefit, that individuals must be eligible to receive the benefit, and that consumers may receive only one Lifeline benefit at a time.¹⁴

FDLCI will make a concerted effort to reach out to the Band community, which has historically been targeted by non-facilities based wireless companies who market their products to obtain the Tribal Lifeline subsidy, but offer only substandard telecommunications services. Based upon the number of children on the Reservation who qualify for free and reduced school lunches, FDLCI estimates that 32% of Band members on the Reservation may qualify for Lifeline benefits.

5. Additional Steps to Prevent Waste, Fraud, and Abuse.

FDLCI will implement the necessary internal controls and processes to ensure compliance with the Commission's rules regarding waste, fraud, and abuse in those portions of its ETC service area for which FDLCI will not receive any CAF II support in Auction 903.

Specifically, FDLCI will certify and verify eligibility of customers to participate in the

¹⁴ See 47 C.F.R. § 54.405.

Lifeline programs in accordance with the Commission's rules, 47 C.F.R. § 54.409-10.¹⁵

Pursuant to the Lifeline Reform Order,¹⁶ once the National Lifeline Eligibility Verifier is deployed and covers Minnesota, FDLCI will rely on that third-party administrator. However, it is more likely that FDLCI will be responsible for the initial determination and annual recertification of consumer eligibility and FDLCI will follow the procedures set forth below.

Consumers will be able to sign up for Lifeline in person, through a toll-free telephone number or FDLCI's website, which will provide information regarding FDLCI's service plans, including a detailed description of the Lifeline program and eligibility criteria. FDLCI will provide Lifeline-specific training to all staff, whether employees, agents or representatives, who interact with actual or prospective consumers with respect to obtaining, changing or terminating Lifeline services. FDLCI will establish a customer service department for processing Lifeline applications and to advise customers about the Lifeline program.

FDLCI's initial and annual recertification forms will conform to the requirements of 47 C.F.R. § 54.410. Because FDLCI will serve Tribal lands, its forms will include the Tribal-specific federal assistance programs listed in 47 C.F.R. § 54.409(b).

FDLCI will take measures to ensure that Lifeline service is limited to a single subscription per household, defined as "any individual or group of individuals who are living together at the same address as one economic unit."¹⁷ Applicants must provide permanent residential address information to FDLCI, and update that address as necessary. After receiving this form, FDLCI will query the National Lifeline Accountability Database to verify that the

¹⁵ See FDLCI Petition at 15-17.

¹⁶ *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 3989-91, ¶¶ 73-9 (2016) ("*Lifeline Reform Order*"); 47 C.F.R. § 54.408.

¹⁷ *Lifeline Reform Order* at ¶ 74.

applicant is eligible for Lifeline.¹⁸ FDLCI will not seek Lifeline reimbursement unless an applicant has certified that no one in his or her household is already receiving Lifeline service.

FDLCI will verify applicant eligibility by requiring the applicant to provide proof of participation in one of the Lifeline eligible programs or proof that his or her annual household income is at or below 135% of the federal poverty guidelines. This proof will be required at the time of sign-up, either in-person when signing up at an FDLCI facility, or by mailing in or faxing the proof when sign-up is over the phone or on the website. Eligibility documents containing proof of eligibility will be returned to the customer after review.

Upon receipt of copies of the applicant's proof of eligibility, FDLCI customer service staff will complete the eligibility verification process and arrange for the start of service.

By December 31 of each year, FDLCI will re-certify the continued eligibility of all its subscribers by contacting them – either in person, in writing, by phone, by text message, by email, or otherwise through the Internet – to confirm their continued eligibility.¹⁹ Written notice of impending service termination will be sent to subscribers who do not respond to the annual re-certification request within 30 days. Alternatively, if a database containing subscriber eligibility data is available, FDLCI will query the database by the end of each year to re-certify eligibility and the date of re-certification.

FDLCI will submit an annual Lifeline “eligible telecommunications carrier certification” as required by 47 C.F.R. § 54.416.

As the processes discussed above demonstrate, FDLCI is committed to taking strong steps to protect against waste, fraud, and abuse within the Lifeline universal service system.

¹⁸ 47 C.F.R. § 54.404(b).

¹⁹ *See id.*

6. FDLCI Will Enable Low-Income Consumers to Benefit from the Lifeline Discount.

Following its designation as an ETC, FDLCI will make available to qualified low-income consumers a discounted, facilities-based service offering that meets all applicable Lifeline requirements. FDLCI will allow its Lifeline customers to apply the federal Lifeline discount to any service plan offered by FDLCI.

7. Designating FDLCI As an ETC Authorized to Receive Lifeline Support Is in the Public Interest.

Granting FDLCI's Petition, as augmented by this Supplement, will serve the communications needs of Band members, as well as those of other residents in the areas where FDLCI will not receive CAF II support. FDLCI plans to make available to low-income consumers on the Reservation a new, more affordable service offering that meets their basic and advanced communications needs.

Designating FDLCI as an ETC, as requested, with the responsibility to provide Lifeline service to low-income consumers, will bring important public interest benefits.

A principal benefit of accepting this Supplement is that FDLCI's designation as a Lifeline-only ETC – solely in the requested areas where FDLCI will not receive CAF II support – will enable the FDLCI to make available competitive low-income service offerings to additional persons living with the Fond du Lac Band's Reservation, not just those who reside in FDLCI's CAF II Auction 903 winning areas.

The Commission has taken significant action to promote deployment of broadband in Tribal areas. In the 2016 CAF Phase II Order the FCC emphasized that it wanted to “advance our policy objective of extending broadband to unserved Tribal lands. We recognize the historic challenges of serving Tribal lands and the low deployment of broadband service on Tribal

lands.”²⁰ Granting the FDLCI Petition, as supplemented herein, would further this policy because the Fond du Lac network is exactly the type of deployment the Commission has said it wants to promote, both in nature and in location.

FDLCI, wholly owned by the Band, plays a vital role in bringing desperately needed services to this rural, underserved community. Distance learning and other educational benefits, as well as access to necessary health and social services, are further positive byproducts of broadband access.

Customer choice, enhanced competition, and improved service quality are other possible outcomes that flow from authorizing a new provider to serve the Reservation. The benefits of competition are widely recognized and extend to all markets, including the universal service market, as recognized by the FCC.

FDLCI’s designation as an ETC will cause these consumers to have greater access to telecommunications services in rural areas, thereby advancing the basic goal of preserving and advancing universal service.²¹ FDLCI, as a Tribal carrier, is uniquely positioned to serve the needs of consumers throughout the Reservation.

For all the foregoing reasons, FDLCI respectfully requests that the Commission accept this Supplement to the FDLCI Petition, and designate FDLCI as a high-cost and/or low-income ETC, as requested in the FDLCI Petition, so that FDLCI will be eligible to receive CAF II support won via Auction 903, enabling it to provide Lifeline services to consumers within its CAF II auction winning areas who are qualified to receive Lifeline benefits, as well as to provide Lifeline benefits to customers residing within in those portions of FDLCI’s proposed Lifeline-only ETC

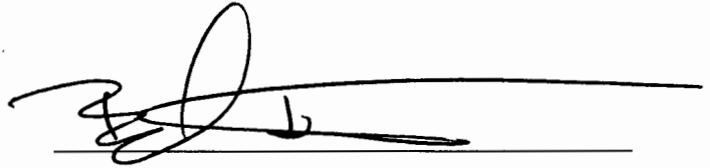
²⁰ *In the Matter of Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Red 5949 (2016) (“CAF Phase II Order”), Appendix D, ¶ 9.

²¹ See 47 U.S.C. § 254(b).

designation area where FDLCI will not receive any CAF II support in Auction 903, who are similarly qualified to receive Lifeline benefits.

Respectfully Submitted,

Dated: June 21, 2019

A handwritten signature in black ink, appearing to read 'Brad Deutsch', is written over a horizontal line.

Brad Deutsch
bdeutsch@gsblaw.com

GARVEY SCHUBERT BARER, P.C
1000 Potomac St NW, Suite 200
Washington, D.C. 20007
Telephone: (202) 965-7880
Facsimile: (202) 965-1729

Counsel to Fond du Lac Communications, Inc.

GSB:10322801.2