

July 3, 2018

Chairman Ajit Pai
Commissioner Michael O’Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20544

Re: WC Docket Nos. 17-287, 11-42, 09-197

Dear Chairman Pai, Commissioners O’Rielly, Carr and Rosenworcel:

The organizations signing below are all very concerned about access to affordable communication on Tribal lands. We are writing in support of the Joint Petition for Stay on the Fourth Report and Order Pending Judicial Review, filed by the Crow Creek Sioux Tribe and Oceti Sakowin Tribal Utility Authority, the National Lifeline Association, Assist Wireless, Boomerang Wireless and Easy Wireless (Joint Petitioners) on June 22, 2018. In short, this is a reasonable and modest request to temporarily delay the implementation of the drastic changes to the Tribal Lifeline program until the conclusion of the review sought by Joint Petitioners in the United States Court of Appeals for the D.C. Circuit. Residents of Tribal lands are at risk of consumer confusion, at best, and loss of phone and broadband service, at worst, if the Commission’s Fourth Report and Order (Tribal Lifeline Order) were to take effect while the court appeal is pending. We are further concerned that the Commission failed in its obligation to engage in government-to-government Tribal consultations with regard to this proposal that will have such a dramatic impact on Indian country, per the Commission’s own long-established procedure.

The Tribal Lifeline program provides an additional \$25 to the regular \$9.25 Lifeline benefit. This enhanced Lifeline benefit is available to eligible consumers who live on Tribal lands. The Tribal Lifeline Order makes substantial changes to the Tribal Lifeline program by prohibiting Lifeline carriers without their own network infrastructure (non-facilities based carriers) from receiving a reimbursement for the enhanced Tribal benefit (the extra \$25). The Tribal Order also limits the availability of the enhanced Tribal benefit geographically to those households living in rural Tribal areas.

The non-facilities based carriers, in many cases, are the main and sometimes only Lifeline service provider available to residents on Tribal lands. Currently two-thirds of Tribal Lifeline consumers are served by non-facilities based carriers. Joint Petitioners state that the limitation of the enhanced Tribal benefit to rural Tribal lands will result in the loss of robust Lifeline service for thousands of Tribal residents. To the extent that consumers may have other carrier options available – which may not be the case for “urban” Tribal members --, those Tribal Lifeline customers may experience a dramatic increase in the cost of service with the loss of the additional \$25/month enhanced Tribal benefit. For Lifeline consumers in rural Tribal areas

where there are no “facilities” based carriers, Tribes will need more time to educate their members regarding the loss of the enhanced Lifeline benefit.

It is our understanding that without a temporary hold on the implementation of the rules, consumers on Tribal lands could be notified of the changes to the Tribal Lifeline program as early as August 2018. Should the Joint Petitioners prevail in their court challenge, the harm from the implementation of the rules that will have occurred in the interim will be severe, as Tribal consumers will have been told that they are losing their Lifeline carrier and, in some cases their enhanced Tribal Lifeline benefit.

We respectfully request that the Commission grant this reasonable request for a temporary hold on the implementation of the Tribal Lifeline program rules regarding the removal of non-facilities based Tribal Lifeline providers from the enhanced Tribal Lifeline support and the geographical limitation of the Tribal Lifeline benefit to rural-Tribal areas pending the resolution of the Joint Petitioners petition for review in the US Court of Appeals for the D.C. Circuit. The petitioners have made well-founded arguments of significant procedural and substantive deficiencies in the Tribal Lifeline Order, which merit the granting of their request.

Sincerely,

Benton Foundation
Center for Media Justice
Center for Rural Strategies
Common Cause
Free Press
The Greenlining Institute
The Leadership Conference on Civil and Human Rights
NAACP
National Consumer Law Center, on behalf of its low-income clients
National Consumers League
National Digital Inclusion Alliance
National Hispanic Media Coalition
Native Public Media
Next Century Cities
Pennsylvania Utility Law Project, On behalf of its low income clients
Public Knowledge