

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Lifeline and Link-Up Reform and Modernization)	WT Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund)	WC Docket No. 10-90

**REPLY COMMENTS OF
THE NATIONAL TRIBAL TELECOMMUNICATIONS ASSOCIATION**

I. INTRODUCTION AND SUMMARY

The National Tribal Telecommunications Association (NTTA) provides these reply comments in response to comments filed in regards to the Federal Communications Commission’s (FCC) Second Further Notice of Proposed Rulemaking addressing the federal Lifeline Program.¹

NTTA consists of Tribally-owned communications companies including Cheyenne River Sioux Telephone Authority, Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc., Hopi Telecommunications, Inc., Mescalero Apache Telecom, Inc., Saddleback Communications, San Carlos Apache Telecommunications Utility, Inc., Tohono O’odham Utility Authority, and Warm Springs Telecom. NTTA’s mission is to be the national advocate for telecommunications service on behalf of its member companies and to provide

¹ *In the Matter of Lifeline and Link-Up Reform and Modernization*, et al., WC Docket No. 11-42, et al., Second Further Notice of Proposed Rulemaking (FCC 15-71), released June 22, 2015 (FNPRM)

guidance and assistance to members who are working to provide modern telecommunications services to Tribal lands.

The Commission received over 150 comments in response to the FNPRM, and while many commenters touched upon Tribal Lifeline issues, NTTA believes more must be said, and even more must be done before the Commission can move forward effectively. NTTA offers these reply comments to (1) respond to commenters where the positions taken are adverse to Tribal interests, and (2) bolster its position on the issues addressed in its initial comments.

II. IMPORTANCE OF THE LIFELINE PROGRAM IN TRIBAL AREAS

In its initial comments, and in the comments of other Tribal-related parties, the importance of the federal Lifeline program was made clear. For example, Gila River Telecommunications, Inc., a Tribally-owned carrier and NTTA member stated:

“GRTI has heard from subscribers of Lifeline service about the importance of the program to their lives. In story after story, we hear how families remain connected through the generations because phone service is made affordable by Lifeline and how it allows elderly recipients to remain connected to critical emergency services and healthcare providers. We also learn just how important Lifeline is to recipients when viewed as a part of a low-income family’s budget. By providing support for telephone service, Lifeline frees up a little money for other things in the budget, like gas to get to a job, or food to feed children and grandchildren, or to pay for medical needs. So, while the Lifeline funding is critical for making communications service affordable, its presence in a low income family’s budget is felt more broadly. Simply put, when every penny matter, Lifeline really matters.”²

As stated in NTTA’s initial comments, this sentiment is common across the areas served by all NTTA members and, most likely, in all Tribal areas of the country.³ The Oglala Sioux Tribe Utility Commission (OSTUC), also recognizes the importance of the Lifeline program: “The OSTUC has found that enhanced Lifeline support is critically important to increasing Lifeline penetration on the [Pine Ridge Indian Reservation].”⁴

² Comments of Gila River Telecommunications, Inc., WC Docket No. 11-42, et al., filed August 31, 2015 (GRTI Comments) at 7

³ See NTTA Comments at 3

⁴ OSTUC Comments at 2

NTTA offers further evidence for the Commission's consideration as to the vital role the federal Lifeline program plays in many, if not all, Tribal areas. Consider the following statements from NTTA member customers that illustrate the importance of this program to their lives:

"Telephone Lifeline is very helpful for her family. She uses the phone for medical situations such as transportation to doctor appointments [and] scheduling appointments. The nearest clinic is 15 miles away but for an emergency situation, the nearest hospital is 70 miles away."

"Telephone Lifeline helps because he is unemployed and has health issues. He uses the phone to make appointments and the doctors at times will call him as well. The nearest clinic is 15 miles away and for emergency situations the hospital is 45 minutes to 1 hr. away."

"Telephone Lifeline is crucial to her family. She sleeps with the phone under her pillow every night. She lives very close to the border with her children. On a number of occasions, immigrants have come to her house and have tried to break in while they were asleep. She uses her phone to call the border patrol or the police department. This happens frequently. She lives 30 minutes away from the hospital."

In addition to the above statements from individual customers, some of the other NTTA member Tribal Lifeline customers have life alert devices that need a telephone line to call out in case of an emergency. These are high risk out-patients who already are burdened with low income, disabilities or are dependent on others for care. As an example, in one case dialysis treatment is 67 miles away so a lot of scheduling is needed via voice line to get these elderly patients to their appointments. Clearly, these customers, and many others, rely on their local service, made in large part possible and affordable by the Tribal Lifeline credit, for all manner of daily and, in many cases, lifesaving needs.

Poverty levels, as discussed in several comments, are a good indicator of probable reliance on the federal Lifeline program for access to vital communications services.⁵ The Lifeline program's income-based eligibility criteria, of course, are directly based on how household income levels compare to federal poverty guidelines. Furthermore, the program-based eligibility criteria rely on many programs that are directly related to customer's relative poverty level. For

⁵ See e.g., GRTI comments at 3-4

one NTTA member, Tohono O’odham Utility Authority (TOUA), the most recent demographic data tells a familiar story for many Tribal areas: “Almost two-fifths of all households (41%) on the Tohono O’odham Nation Tribe have a poverty ratio of between 0.2 and .99 or ‘severely poor’...the data indicate that almost half (49%) of Tohono O’odham tribal members live under the poverty line.”⁶ At the same time, only 20% of TOUA’s customer base is enrolled in the Lifeline program. Clearly, poverty levels are one indicator of the demand for the Lifeline program in Tribal areas, but other issues exist related to ensuring all eligible customers enroll in the program and thus enjoy the benefits of connecting to the communications network.

III. REPLY COMMENTS

A. Lifeline Credit

NTTA notes support for its position that, since broadband service is to be added to the services provided under the federal Lifeline program, the Tribal Lifeline credit must increase. The Nez Perce Tribe urges “the Commission to consider that in extreme rural and high cost areas of Indian Country, the Enhanced Lifeline value of \$25.00 per household is an insufficient amount to incentivize broadband infrastructure build out.”⁷ In addition, the Navajo Tribal Utility Authority recommends that “additional Lifeline support is appropriate to stimulate broadband penetration in Tribal Areas, as a higher support level for bundled voice/broadband service. NTUA [Wireless] proposes that the Tier 4 Tribal Lifeline support remain at \$25 for voice only service and be increased to \$35 when voice service is bundled with voice service.”⁸ Finally, the Alaska Rural Coalition, in addressing the current \$9.25 non-Tribal Lifeline credit, “believes that a Lifeline support level of \$9.25 will be wholly inadequate to provide broadband to Lifeline customers. Even the higher Tribal land support amount is inadequate to cover the cost of broadband, where it is

⁶ *Demographic Analysis of the Tohono O’odham Nation, Using the 2010 Census and 2010 American Community Survey Estimates*, Arizona Rural Policy Institute, Center for Business Outreach, W.A. Franke College of Business, Northern Arizona University

⁷ Comments of The Nez Perce Tribe at 2

⁸ Navajo Tribal Utility Authority Comments at 3

available.”⁹ Other parties advocate for increases to the Lifeline credit in light of adding broadband services to the program for the same or similar reasons.¹⁰

Clearly, there is substantial, rational support for increasing the Tribal Lifeline credit to recognize the additional cost that would be faced by low-income consumers to subscribe to broadband services. It will do little, if any, good to define broadband in to the Lifeline program if low-income consumers are not provided the additional means by which to take advantage of this vital service.

B. Tribal-Specific Eligibility Criteria

In the FNPRM, the Commission asks that “for example, if we no longer permit consumers to qualify through Tribal-specific programs, what would be the impact to low-income consumers on Tribal lands?”¹¹ Several parties addressed this issue, including GRTI¹² and the National Congress of American Indians (NCAI).¹³ Smith Bagley, Inc. (SBI), succinctly states that it

“can see no potential upside to eliminating these or any other qualifying programs from the list. While it would potentially reduce Lifeline program payouts, this is not a worthy goal in itself if it is not achieved by eliminating proven sources of program waste, fraud, and abuse. Dropping these programs from the Commission’s list would not curb waste, fraud, and abuse. There is no evidence that these programs are particularly susceptible to abuse, and customers who legitimately meet the income criteria for those programs would be prevented from receiving Lifeline service.”¹⁴

NTTA joins GRTI, NCAI, and SBI in opposing any attempts by the Commission to eliminate or otherwise limit the programs under which low-income consumers qualify to participate in the federal Lifeline program. The goal of universal service in the United States specifically addresses access in rural and high cost areas:

“Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in

⁹ Alaska Rural Coalition Comments at 9

¹⁰ See e.g., Alexicon Comments at 3; GRTI Comments at 11

¹¹ FNPRM at 113

¹² GRTI Comments at 9-10

¹³ NCAI Comments at 7-8

¹⁴ SBI Comments at 33

urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”¹⁵

The Lifeline program was adopted, in part, to ensure this statutory goal is met. For Tribal areas, the Commission, in 2000, adopted certain provisions in the program designed to “increase access to telecommunications services and subscribership among low-income individuals living on American Indian and Alaska Native lands...”¹⁶ Any attempts to eliminate Tribal-specific program-based eligibility will only serve to curtail subscribership in Tribal areas – in direct contravention of the goals set by Congress and by the Commission itself.

C. Densely Populated Tribal Areas

The Commission, in the *FNPRM*, seeks comment “on whether we should focus enhanced Tribal support to those Tribal areas with lower population densities, on the theory that provision of enhanced support in more densely populated areas is inconsistent with the Commission’s objectives.”¹⁷ Commissioner Pai takes this concept further and presents it as a way to reduce so-called waste in certain Tribal areas.¹⁸ Several parties oppose this proposal, including NCAI and GRTI¹⁹, with NCAI stating “the notion that the enhanced tribal Lifeline subsidy should be limited only to county level tribal lands with less than 15 people per square mile is blatantly absurd and severely misguided.”²⁰

NTTA agrees with GRTI, NCAI, and others and opposes any attempt to limit Tribal Lifeline eligibility based on a population density test. This type of proposal completely misconstrues the basic reason for the Lifeline program’s existence – that is, the *affordability* of supported services for low-income consumers. There is no established correlation between income levels and population density. The economic conditions on Tribal lands leading to the Commission’s

¹⁵ 47 U.S.C. § 254(b)(1)(3)

¹⁶ *In the Matter of Federal-State Joint Board on Universal Service, Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking (FCC 00-208), CC Docket No. 96-45, rel. June 30, 2000 (*Tribal Lifeline Order*) at 13

¹⁷ *FNPRM* at 169

¹⁸ Dissenting Statement of Commissioner Ajit Pai

¹⁹ GRTI Comments at 15

²⁰ NCAI Comments at 5

decision to provide an additional level of Lifeline support to low-income consumers living in these areas does not relate to population density in any way, shape or form. If there are problems with discreet parts of the overall Tribal Lifeline program, then those issues should be addressed directly and not with, for example, a broad-brushed proposal to exclude low-income Tribal consumers from the program if they happen to live in a more densely populated area.

D. Overall Budget for the Lifeline Program

The Commission requests comment on whether to establish an overall budget for the Lifeline program.²¹ NTTA opposes the establishment of a budget for the Lifeline program for one simple reason: a budget for a needs-based program such as the Lifeline program makes little to no sense. Once the Lifeline program's eligibility criteria are established, it is axiomatic that all who qualify should be enrolled into the program. If a budget is established, no one has been able to explain how providers, the FCC, USAC, state agencies or other entities will determine which low-income consumers will be allowed into the program. Is it a lottery, random selection, some type of quantitative assessment of need, or another equally *ad hoc* method? Clearly, the federal Lifeline program must be structured so as to allow enrollment of all who qualify, and therefore cannot be tied to a specific budget the way other federal universal service programs are limited.

A diverse group of parties also oppose an overall budget being placed on the Lifeline program. The Low Income Consumer groups argue that a budget is premature and could risk "rationing of access to essential broadband and voice service."²² SBI, a competitive wireless Lifeline provider, also argues that a Lifeline budget is not appropriate:

"When considering a budget for an infrastructure program, the Commission can estimate how much work needs to be done and how long it will take to accomplish program goals. For example, if building out 10 Mbps/1 Mbps broadband throughout rural America were estimated to cost \$100 billion in subsidies, a budget can be arrived at by simply setting the length of time within which to complete the task. A more ambitious timeline requires a larger annual budget.

Lifeline is different. As stated above, telephone penetration rates for Navajo households have increased dramatically since the Twelfth Report was adopted, largely as a result of Enhanced Lifeline. Most would likely see such gains as a success. Would connecting up the remaining low-income households be considered a further success?

²¹ *FNPRM* at 56; see also Dissenting Statement of Commissioner Ajit Pai

²² Low Income Consumer Group comments at 4

SBI feels strongly that the answer is yes. SBI feels equally strongly that it would be counterproductive for the Commission to impose a budget which would have the effect of preventing the remaining Tribal households from accessing Lifeline benefits, or which would prorate benefits to existing participants.”²³

Considering the above arguments, and the fact that issues raised in the FNPRM and comments and proposals made thereon could significantly affect the amount of Lifeline program funding required going forward, it is at the very least premature to consider an overall budget, and likely unreasonable to do so.

E. Tribal Members Receiving Support

The Commission raised questions in the FNPRM regarding possible changes to the self-certification of residency on Tribal lands for purposes of Lifeline program participation.²⁴ SBI argues that changes to the current rule should be adopted, with carriers being provided “flexibility to use...reasonable methods in such cases [where accurate mapping data is not available] to verify the applicant’s claim of Tribal residency.” NTTA agrees, up to a point, that changes to Tribal residency verification may be called for, but rejects any implication that the provision of Tribal Lifeline credits to non-Tribal members is a substantial source of “waste, fraud, and abuse” in the program.

NTTA recommends that, at most, Tribal governments that are readily able to identify and confirm Tribal membership during the Lifeline enrollment process be authorized to do so. Otherwise, NTTA recommends the current self-certification process is sufficient for ensuring the Tribal membership of Lifeline enrollees.²⁵

IV. CONCLUSION

NTTA continues to support the Commission’s efforts to ensure the longevity and effectiveness of the federal Lifeline program and to ensure it continues to meet its main goal of

²³ SBI Comments at 16

²⁴ FNPRM at 171

²⁵ NTTA is aware of the issues regarding Oklahoma Tribal areas raised in the Dissenting Statement of Commissioner Ajit Pai; however, these issues should be addressed separately from any broad-based effort to curtail Lifeline enrollment in other Tribal areas.

maintaining the affordability of voice and broadband services for low-income consumers. While NTTA understands the Commission's need to root out "waste, fraud, and abuse" in the programs under its purview, caution must be taken that these changes and resulting savings are not accomplished on the backs of the most vulnerable Americans – especially those living in Tribal areas. It is true that the Commission's universal service programs have done much to bring vital services to all areas of the country, but more work is needed. As stated in the recently released Broadband Opportunity Council Report, "some parts of the country, mostly rural and Tribal lands, are connectivity deserts – regions with little or no access to broadband – or 'parched' with broadband coverage inadequate to meet community needs."²⁶ This is clearly true, and must be addressed on a holistic basis by a combination of efficient, effective, and sufficient federal and state universal service programs including, crucially, the federal Lifeline program. With the recommendations made above and in NTTA's initial comments, the Commission can go a long way to meeting this goal in Tribal areas.

Respectfully Submitted,

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²⁶ Broadband Opportunity Council, Report and Recommendations, released August 20, 2015 at 6