

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

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

REPLY COMMENTS OF GILA RIVER TELECOMMUNICATIONS, INC.

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Gila River Telecommunications, Inc. (“GRTI”), by its attorneys, hereby submits these reply comments in the above-referenced proceeding in which the Federal Communications Commission (“FCC” or “Commission”) seeks further comment on reforms to the Lifeline and Link-Up programs.¹

1. There is Broad Support for Continuation of Enhanced Lifeline and the Expansion of Lifeline to Include Broadband Service.

As an initial matter, GRTI calls attention to two factors on which there is near unanimous agreement in the record – continuation of enhanced Lifeline and expansion to include broadband in Lifeline as a supported service.

Continue Enhanced Lifeline. First, the overwhelming majority of commenters that addressed the question of whether the Commission should continue to provide enhanced Lifeline support, including GRTI, called on the Commission to ensure its continuation.² The success of the program for bringing greater connectivity to tribal residents is well documented in the record of this proceeding. As Smith Bagley notes, for example, when the Commission began the enhanced Lifeline program in 2000, the Census data indicated that less than 40 percent of Navajo households had access to a telephone. By 2013, almost 77 percent of Navajo households had access.³ Similar successes occurred on Gila River and other tribal communities throughout the Nation, but the job is not done. As WTA states in its comments, the conditions that in 2000 led

¹ *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 *et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (Jun. 22, 2015) (2015 Lifeline Second Further Notice).

² See generally National Congress of American Indians (NCAI) Comments (Aug. 31, 2015); NCAI Comments; NCAI Resolution #MSP-15-036; National Tribal Telecommunications Association Comments (Aug. 31, 2015); Telscape and Sage Telecommunications, LLC Comments (Aug. 31, 2015); Smith Bagley, Inc. Comments (Aug. 31, 2015); General Communications, Inc. Comments (Aug. 31, 2015); Citizen Potawatomi Nation Comments (Aug. 31, 2015); The Osage Nation Comments (Aug. 31, 2015); Alexicon Telecommunications Consulting Comments (Aug. 31, 2015); Hon. Gary Batton, Chief Choctaw Nation of Oklahoma Comments (Aug. 31, 2015); NTUA Wireless Comments (Aug. 31, 2015); Assist Wireless LLC and Easy Telephone Services Company Comments (Aug. 31, 2015); South Dakota Telecommunications Associations Comments (Aug. 31, 2015); Comptel Comments (Aug. 31, 2015); WTA – Advocates for Rural Broadband Comments (Aug. 31, 2015); Navajo Nations Telecommunications Regulatory Commission Comments (Aug. 31, 2015); GVNW Consulting, Inc. Comments (Aug. 31, 2015); Inter-Tribal Council of Five Civilized Tribes Comments (Aug. 13, 2015); Fort Mojave Telecommunications, Inc. Comments (Aug. 21, 2015); Navajo Tribal Utility Authority Comments (Aug. 31, 2015); Alaska Rural Coalition Comments (Aug. 31, 2015).

³ Smith Bagley, Inc. Comments at 2-3.

the Commission to adopt an enhanced tribal Lifeline mechanism “remain relevant today and supports the continued retention of enhanced Lifeline support for Tribal Lifeline customers.”⁴

Expand Lifeline to Support Broadband. Second, most commenters support the expansion of Lifeline to include broadband.⁵ As commenters noted, the importance of broadband necessitates expansion of Lifeline to include support.⁶ There is some disagreement in the record over whether and what the minimum level of service should be and GRTI agrees with Alexicon and others that support adoption of a minimum service level. Further, we agree that the minimum speed should be equal to the speed for obtaining support under the Connect America Fund, currently set at 10 Mbps/1 Mbps speed.⁷ Low-income residents on tribal lands and rural areas are deserving of at least that level with which the Commission has determined is necessary to receive support under its broadband deployment program and may need even more robust speeds given the difficulties in obtaining goods and services in rural and tribal areas.⁸

GRTI agrees with those commenters that note the inclusion of broadband would need to be accompanied by an increase in support amounts to accommodate broadband.⁹ Alexicon’s comments provide a strong framework for analyzing what the appropriate level of support should be and is consistent with the information GRTI submitted in its comments.¹⁰ GRTI, NTTA and others agree that additional support will be necessary to ensure the service is affordable for low-income consumers. As Alexicon cautions “providing broadband service to low-income

⁴ WTA – Advocated for Rural Broadband Comments at 18.

⁵ See e.g., Alexicon Comments at 2-3; NCAI Comments; Rural Broadband Policy Group at 4; Telscape and Sage Telecommunications, LLC Comments; Public Knowledge Comments; Smith Bagley Comments; California Telehealth Network Comments; American Library Association Comments (Aug. 31, 2015); TCA Comments (Aug. 31, 2015); NTCA Comments (Aug. 31, 2015); Windstream Comments (Aug. 31, 2015); Frontier Communications Comments (Aug. 31, 2015); AT&T Comments (Aug. 31, 2015); Connected Nation Comments (Aug. 31, 2015). See *supra* n. 2.

⁶ Rural Broadband Group Comments at 9-12 (*discussing* education and healthcare opportunities); California Telehealth Network Comments at 1-2 (*discussing* healthcare opportunities); Public Knowledge Comments at 16, 18. GRTI, however, also agrees that carriers should be able to continue to offer voice-only services. Smith Bagley Comments at 13.

⁷ Alexicon Comments at 5-6; Rural Broadband Policy Group at 17; NTTA Comments at 7-9; WTA – Advocates for Rural Broadband Comments at 9.

⁸ Alexicon Comments at 6.

⁹ Alexicon Comments at 3-4; NTTA Comments at 8-9.

¹⁰ Alexicon Comments at 4-5.

consumers means little if the service is not affordable.”¹¹ We also want to ensure that carriers have the support that is needed. As NCAI notes in its comments, the level of enhanced Lifeline support has not increased since its adoption in 2000.¹² Adding broadband, a service for which the Commission’s Urban Rate Survey reveals is almost twice the price of voice service, cannot be covered by the existing support levels. We understand that increased funding may be difficult given concerns of some of the size of the fund. However, GRTI believes the need to support broadband is well-supported in the record. GRTI also believes that data supports an increase in funding. GRTI, therefore, urges the Commission to structure the program in a way that ensures low-income consumers have meaningful access to affordable broadband service by increasing the support amount.

2. Commenters Support the Need for Greater Tribal Consultation Before Making Changes to Commission Rules.

As the Commission has heard now in a number of proceedings, meaningful consultation with tribal governments and those who provide communications services to tribal lands is essential to the Commission fulfilling its commitment to engage in government-to-government consultation.¹³ GRTI agrees with the comments from NCAI and others regarding the importance of tribal consultation. GRTI also agrees with the commenters who remind the Commission that the consultation process is part of the initial decision-making process, not something to do at the end of the process. As the Potowatomi Nation explained that the consultation needs to be early in order to “provide interactive feedback from tribes as well as ongoing meaningful discussions prior to any proposed action being adopted.” Similarly, the Chief of the Choctaw Nation explained that the consultation process “must precede and inform federal decisions, not follow them.”¹⁴ We know that the Commission understands this process and we appreciate the Chairman’s work to reinvigorate the Native Nations Broadband Task Force. We are concerned, however, by the inclusion of tribal-specific decisions regarding Oklahoma in the Order portion of

¹¹ Alexicon at 2.

¹² NCAI Comments at 7.

¹³ Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes, Federal Communications Commission, 16 FCC Rcd. 4078 (2000).

¹⁴ Choctaw Nation Comments at 2.

this item before any consultation was conducted. It causes great concern given the precedent it sets and we would hope the Commission stands against inclusion of decisions that affect tribal lands that have not been subject to meaningful consultation.

3. Parties Agree Population Density Should Not be Used to Limit Enhanced Lifeline Support.

As GRTI argued in its initial comments, population density should not be used to limit tribal areas receiving enhanced Lifeline support. NCAI unanimously adopted a resolution opposing limiting enhanced Lifeline on the basis of population density.¹⁵ Others such as WTA agree that limiting support based on density will not further the Commission's goals. WTA notes that "low income levels pose a major barrier to telecommunications services for residents of Tribal lands regardless of the density of the surrounding area." As WTA notes, the cost of providing service includes not only deployment of the immediate local network but also middle mile transport costs that vary across the country, particularly for providers serving rural and remote Tribal communities.¹⁶

4. Parties Urge Limiting Support to Facilities-Based Providers.

GRTI reiterates its position that the enhanced Lifeline program was never intended to be primarily about deployment; instead its primary goal is to ensure access to communications services for low-income individuals living on tribal lands.¹⁷ We continue to believe, however, that enhanced Lifeline is part of a holistic approach, which includes universal service funding for high cost areas and anchor institutions such as schools and rural health clinics. It is in that context that we agree with the Commission's proposal to limit support to those that deploy, build and maintain infrastructure on tribal lands.¹⁸ This position is consistent with the position of

¹⁵ NCAI Comments at 5.

¹⁶ WTA – Advocates for Rural Broadband Comments at 20-21.

¹⁷ GRTI Comments at 6. NTCA stated a similar position noting that "[a]s an initial matter, the services to which discounts apply for low income consumers would simply be unavailable in the absence of the networks that the High-Cost program enables; while important to stimulate adoption and ongoing use of networks among some users, the Lifeline program itself cannot and does not provide incentives to invest in underlying networks...Put another way, there is no discount or voucher program that could, on its own, justify network construction in areas where the costs can exceed thousands of dollars per location." NTCA Comments at 10.

¹⁸ GRTI Comments at 15.

WTA and Smith Bagley for example. WTA noted that “limiting enhanced support to high-cost support recipients and/or facilities-based providers would encourage broadband buildout to Tribal lands and would be a better use of enhanced program dollars.”¹⁹ Smith Bagley notes that the additional support for low income residents has been “an enormous boost in constructing networks on Tribal lands.”²⁰

GRTI appreciates the opportunity to provide these comments in the proceeding. We are pleased that the overwhelming majority of commenters are supportive of retaining the enhanced Lifeline program and we urge the Commission to keep the program intact. We are also pleased that most commenters agree that limiting support by population density is unwarranted and will not further the Commission’s primary goal of addressing adoption of communications services on tribal lands. We urge the Commission to take seriously its commitment to tribal consultation as it moves forward with this and other proceedings in which key determinations are being made about the ability to access and enhance communications services on tribal lands. At its core, tribal consultation promotes tribal sovereignty.

¹⁹ WTA – Advocates for Rural Broadband at 19.

²⁰ Smith Bagley, Inc. Comments at 14.