

LEECH LAKE TELECOMMUNICATIONS COMPANY
190 Sailstar Drive NE, Cass Lake, MN 56633

September 30, 2015

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: Leech Lake Telecommunications Reply Comments In the Matter of Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42; Telecommunications Carriers Eligible for Service, WC Docket No. 09-197; and Connect America Fund, WC Docket No. 10-90.

Dear Secretary Dortch,

The Leech Lake Telecommunications Company (LLTC) respectfully submits these comments for the record in the Lifeline/Link Up proceeding. LLTC is owned by the Leech Lake Band of Ojibwe. The Leech Lake Reservation is located in rural north-central Minnesota, approximately 235 miles north of Minneapolis/St. Paul and 100 miles south of the Canadian border. The Reservation is extremely rural, covering parts of four counties, with a total population on tribal lands of 10,660. The Band's unemployment rate is 46%. The Band established the Leech Lake Public Utilities Commission in 2009 to regulate the provision of telecommunications service on the Reservation. The primary incumbent provider, The Paul Bunyan Rural Telephone Cooperative (PBC) refuses to recognize the authority of this Commission and has refused to provide even basic telecommunications service to tribal members. LLTC filed a Petition for Eligible Telecommunications Carrier status with the FCC on December 5, 2013 in WC Docket No. 09-197 and WT Docket No. 10-208 to qualify as a carrier eligible for universal service funds (USF) to provide telecommunications services because PBC refuses to do so, even though it receives USF funding. The FCC has not acted on this petition to date. LLTC needs USF funding to provide critical services to tribal members and key components of this funding include the Lifeline and Linkup subsidies.

LLTC submitted comments in this proceeding on July 22, 2015. Tribal lands like ours continue to be the most disconnected areas of the country in terms of access to basic telephone, wireless, or advanced high-speed Internet services and the potential benefits from the Lifeline/Link Up programs have not been fully realized on our Reservation. The Federal Communications Commission (FCC) has acknowledged these facts in many of its rulemakings and in its *2015 Broadband Progress Report*, yet tribal nations still have to justify why market forces have failed to bridge the Digital Divide in Indian Country.

About the Lifeline Program and its Importance to Tribes

The Lifeline program was started in 1985 to provide a monthly discount on a telephone bill for low-income consumers, and in 2008 the program was expanded to support discounted wireless cell phone services. In recognition of the disparate levels of telecommunications service and the economic disparities on tribal lands, the FCC created an enhanced Tribal Lifeline

subsidy for low-income residents of tribal lands. While the Lifeline subsidy offers a discount of up to \$9.25 per access line, the enhanced Tribal Lifeline subsidy offers an additional subsidy of up to \$25.00, for a total possible discount of up to \$34.25 for low-income residents of tribal lands.

Low-income individuals can qualify for the Lifeline program if they are at or below 135% of the Federal Poverty Guidelines, or enrolled in one of the following programs:

- Medicaid
- The Supplemental Nutrition Assistance Program (SNAP)
- Supplemental Security Income (SSI)
- Federal Public Housing Assistance Program (Section 8)
- Low-Income Home Energy Assistance Program
- Temporary Assistance for Needy Families (TANF)
- Tribally-Administered Temporary Assistance for Needy Families (TTANF)
- National School Lunch Program's Free Lunch Program
- Bureau of Indian Affairs General Assistance
- The Food Distribution Program on Indian Reservations (FDPIR), or
- Head Start (if income eligible)

In this proceeding the FCC asks whether certain programs from the above list should be removed from the eligible programs list for the Lifeline and enhanced Tribal Lifeline program. LLTC urges the FCC to maintain its current list to ensure that eligible low-income individuals are able to enroll in the Lifeline/enhanced Tribal Lifeline program. The Lifeline program was created to ensure that low-income individuals could have access to vital telecommunications service to access emergency services, connect with social services and programs for job placement, and keep in contact with family members. The eligible programs list was adopted by the FCC to ensure that a broad cross-section of low-income individuals could access these vital communications services. There is no reason to change this list now.

The FCC Should Maintain the Enhanced Tribal Lifeline Subsidy and Expand for Broadband Services

Telecommunications companies receiving the enhanced Tribal Lifeline subsidy should be required to also build out telecommunications infrastructure on tribal lands in coordination with tribal governments. This requirement will ensure that these subsidies for low-income individuals also reach tribal areas and residents that have remained disconnected from telephone and/or cell phone services. The LLTC is exploring its legal options against PBC which has received millions of dollars from the Universal Service Administrative Company even though it does not provide the services it is legally required to do, let alone provide broadband services. PBC has refused to coordinate its actions on the Band's Reservation with the Tribe or conduct the meaningful tribal engagement that is now required by the FCC. Rogue providers such as PBC should be stripped of their ETC status for their abuse of USF funding.

We understand that some FCC commissioners may want to limit the enhanced Tribal Lifeline subsidy to sparsely populated tribal lands. While the Leech Lake Band of Ojibwe occupies such

lands it opposes such a limit because the FCC's emphasis should be on helping expand tribal connectivity and tribal members may lack this even if members reside in urban areas. Limiting the enhanced Tribal Lifeline subsidy to sparsely populated areas on tribal lands would only create another incentive for carriers to overlook the provision of these services for *all* low-income residents of tribal lands. Additionally, low-income tribal members may reside in an economic hub that has advanced telecommunications services, but that does not always mean they will be able to afford such services.

The FCC has continually recognized the disparate levels of telecommunications services on tribal lands. For instance, in the Lifeline FNPRM and R&O the FCC stated:

The Commission recognizes its historic federal trust relationship with federally recognized Tribal Nations, has a longstanding policy of promoting Tribal self-sufficiency and economic development, and has developed a record of helping ensure that Tribal Nations and their members obtain access to communications services.³⁰⁸ It is well documented that communities on Tribal lands historically have had less access to telecommunications services than any other segment of the U.S. population.³⁰⁹ Given the difficulties many Tribal consumers face in gaining access to basic services by living on typically remote and underserved Tribal lands, the Commission recognizes the important role of universal service support in helping to provide telecommunications services to the residents of Tribal lands.¹

Limiting the enhanced Tribal Lifeline subsidy to sparsely populated areas on tribal lands would only create another incentive for carriers to overlook the provision of these services for *all* low-income residents of tribal lands. Additionally, low-income tribal members may reside in an economic hub that has advanced telecommunications services, but that does not always mean they will be able to afford such services.

The FCC should increase the enhanced Tribal Lifeline support for tribal lands above the current \$25.00 subsidy to support broadband services. The current enhanced Tribal Lifeline subsidy of up to \$25.00 has not been raised since it was established in 2000. If the program is going to transition to support broadband services, the FCC must increase the subsidy to appropriate levels that would bring such services to unserved and underserved tribal lands.

The FCC Must Consult with Tribal Nations and All Matters with Tribal Implications

One of the alarming rules adopted by the FCC in the Lifeline Report & Order (R&O) was the decision to redesignate what constitutes tribal lands in Oklahoma without first consulting with those tribal nations. Previous to the adoption of the R&O, the Oklahoma Corporation Commission (OCC) recognized most of Oklahoma as eligible for the enhanced Tribal Lifeline subsidy. This was done in recognition of the unique tribal land status that exists in Oklahoma, and the FCC has previously recognized the OCC's determination of such lands.

¹ Federal Communications Commission. "Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order: WC Docket No. 11-42; WC Docket No. 09-197; WC Docket No. 10-90". ¶159. Pg 56. Released June 22, 2015. Available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-71A1.pdf.

However, with the FCC's recent decision to alter what constitutes tribal lands in Oklahoma, low-income tribal members in areas such as Oklahoma City and Tulsa will no longer be eligible for the enhanced Tribal Lifeline program. The lack of consultation prior to the adoption of a new map redesignating tribal lands in Oklahoma raises serious concern for future rulemakings that may seek to limit vital USF funds for tribal lands and residents. Further, the FCC's actions seem inconsistent with the definitions the FCC adopted for "tribal lands" in other rulemakings. See. 47 C.F.R. § 73.7000.

LLTC respectfully urges the FCC to ensure that timely and meaningful consultation occurs prior to the adoption of any regulations that alter tribal nation, member, and land eligibility for USF funds. This request is made in acknowledgement of the FCC's continual statements regarding disparate levels of telecommunications service on tribal lands, and coincides with the FCC's own *2000 Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*.²

LLTC appreciates the opportunity to provide input on this important matter. We hope that the FCC will engage and consult with tribes in a proactive manner moving forward as technology and services continue to advance. Tribes must have a seat at the table in these discussions and timely, meaningful consultation must occur prior to the adoption of regulatory changes. If you have any questions please contact Sally Fineday, Business Manager at LLTC at Sally.Fineday@llojibwe.org, or Judith Endejan at jendejan@gsblaw.com. Thank you.

Sincerely,

Leech Lake Telecommunications Company owned by the Leech Lake Band of Ojibwe.

² See Federal Communications Commission. *2000 Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*. Released June 23, 2000. Available at <https://www.fcc.gov/Bureaus/OGC/Orders/2000/fcc00207.doc>.