

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

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC 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 ASSIST WIRELESS, LLC AND
EASY TELEPHONE SERVICES COMPANY D/B/A EASY WIRELESS
ON THE SECOND FURTHER NOTICE OF PROPOSED RULEMAKING TO
MODERNIZE AND RESTRUCTURE THE LIFELINE PROGRAM**

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Assist Wireless, LLC (Assist) and Easy Telephone Services Company d/b/a Easy Wireless (Easy), by and through the undersigned counsel, respectfully submit these reply comments in response to the comments filed in response to the Commission’s Second Further Notice of Proposed Rulemaking (Second FNPRM) to modernize and restructure the Lifeline program.¹

INTRODUCTION AND SUMMARY

Assist and Easy submit these reply comments to focus on three issues regarding the provision of enhanced Lifeline benefits on Tribal lands, particularly in Oklahoma. First, the

¹ See *In the Matter of Lifeline and Link Up Reform and Modernization, et al.*, WC Docket 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 (rel. June 22, 2015) (Second FNPRM).

Commission must redress its decision in the Order on Reconsideration to redefine Tribal lands for Oklahoma. Affected Tribal Nations fairly claimed that this action was taken without consultation and is an affront to Tribal sovereignty. Further, the Commission's decision has created significant uncertainty regarding which map the Commission ultimately will determine to be an accurate representation of "former reservation lands in Oklahoma" and how it will be implemented. In light of this uncertainty and the strong opposition by Tribal Nations and ETCs serving Oklahoma, the Commission should suspend or extend the 180-day transition period until the agency has provided stakeholders with sufficient information necessary to implement the new map (i.e., electronic representation of the boundaries) or another map, if that is the outcome chosen by the Commission.

Second, the Commission should discard its proposal to limit enhanced Lifeline support only to facilities-based providers. In their initial comments, Assist and Easy explained that wireless resellers provide an overwhelming majority of enhanced Lifeline services in Oklahoma, while the Tier 1 wireless network providers do not provide such services directly to residents of Tribal lands in the state.² The record demonstrates that many Tribal Nations support wireless resellers providing wireless communications to serve Tribal residents and recognize that wireless resellers encourage competition and innovation that benefits Lifeline-eligible consumers residing on Tribal lands. If the Commission restricts wireless resellers from providing enhanced Lifeline support, the result would be decreased subscribership and Lifeline participation rates on Tribal lands and, in many cases, an inability for Tribal residents to gain access to affordable wireless

² See Comments of the Assist Wireless, LLC and Easy Telephone Services Company d/b/a Easy Wireless, WC Docket No. 11-42, *et al.*, 18-19 (filed Aug. 31, 2015) (Assist and Easy Comments).

communications. These outcomes are the antithesis of “universal service” and the goals of the enhanced Lifeline program in particular and must be rejected.

Finally, the Commission must continue to include more densely populated Tribal areas, such as Tulsa, Oklahoma, as Tribal lands where residents are eligible to receive the enhanced Lifeline support. The record reveals no compelling justification for redlining more densely populated cities, counties or communities out of the Tribal areas designated as being eligible for enhanced Lifeline support.

I. The Commission Must Redress its Decision to Redefine Oklahoma’s Tribal Lands by Suspending or Extending the 180-Day Transition to the New Map in Light of Strong Opposition from Tribal Nations and Confusion Among Stakeholders

The Commission’s decision to redefine Tribal lands in Oklahoma upended over a decade of precedent and clarity as to which areas of the state are eligible for enhanced Lifeline support. Assist and Easy maintain that this course of action was improper, detrimental to the enhanced Lifeline program and those who are served by it, and disrespectful to Tribal Nations.³ The record is replete with comments from Tribal representatives and others admonishing the Commission’s lack of consultation, notice and respect for Tribal sovereignty. Further, while portrayed as a decision to “provide clarity” to ETCs and consumers,⁴ the Commission’s action has resulted in a stark lack of clarity for all stakeholders now in the midst of a 180-day transition

³ Assist and Easy, along with other two other wireless ETCs authorized to serve Oklahoma, appealed the Commission’s decision to redefine Oklahoma Tribal lands to the U.S. Court of Appeals for the District of Columbia. The parties asserted that the Commission’s action in the Order on Reconsideration to modify the definition of “former reservation lands of Oklahoma” violated Commission regulations, the Administrative Procedure Act (APA), and the parties’ due process rights and asked the Court to vacate, enjoin and set aside the Commission’s Order on Reconsideration. *See* Petition for Review, *Assist Wireless, LLC, et al. v. FCC, et al.*, No. 15-1322 (D.C. Cir. Sept. 11, 2015).

⁴ Second FNPRM ¶ 260.

period to a map with undiscernible boundaries and which may change before the expiration of the transition period in any event.⁵ Much of this could have been avoided, if the Commission had provided notice and the opportunity for comment, and conducted meaningful consultations with sovereign Tribal Nations *before* it redefined Tribal lands in Oklahoma.

In light of the record and the continued uncertainty surrounding the Commission's action, Assist and Easy urge the Commission to suspend and extend the 180-day transition period for the new Tribal lands definition and new map. The record supports a suspension of the transition period until the Commission decides that it has made the right decision (or makes another one) with respect to the definition of Tribal lands in Oklahoma and addresses significant questions that remain unanswered nearly one-third of the way through the 180-day transition period.⁶

A. Tribal Nations Have Admonished the Commission for Its Decision to Redefine Oklahoma Tribal Lands

Assist and Easy urge the Commission to suspend its decision to redefine Tribal lands in Oklahoma and the 180-day transition period, so that it can repair the damage it has done with respect to its relations with sovereign Tribal Nations. The record shows that the Commission's decision to redefine Oklahoma's Tribal lands drew stern opposition from Tribal Nations, including Tribes located within Oklahoma as well as across the United States.

Many commenters, including the National Congress of American Indians (NCAI), the Choctaw Nation, the Nez Perce Tribe and others, admonished the Commission's action and its

⁵ See Second FNPRM ¶ 266 (stating that the Bureau may offer another map based on consultation with the Oklahoma Corporation Commission (OCC) and the Tribal Nations regarding the efficacy of the Oklahoma Historical Map).

⁶ Assist and Easy presently intend to file a formal motion to stay with the Commission.

lack of meaningful consultation, and called on the Commission to undo its action.⁷ The NCAI noted that some of the Commission’s statements were “**alarmingly antagonistic**” toward the Tribal Nations and criticized the Commission for failing to recognize the success of the Lifeline program on Tribal lands.⁸ The Choctaw Nation argued that much of the controversy could have been avoided if the Commission had “properly followed the government-to-government protocols” by consulting with the Tribes prior to taking action.⁹

Tribal Nations located outside of Oklahoma also expressed consternation with the Commission’s decision. For example, the Nez Perce Tribe asserted that the Commission’s decision represents a “**blatant disregard for Tribal sovereignty**” and puts Tribal Nations on the defensive against further actions by the Commission that infringe on Tribal sovereignty.¹⁰ Some commenters observed that the Commission has engaged in some consultation following the release of its decision; but, according to the Choctaw Nation, this action was viewed as an attempt to pacify Tribal Nations rather than consultation in good faith.¹¹ The Commission can undo much of the harm it has done by suspending its decision to redefine Tribal lands in Oklahoma and the 180-day transition period, so that it can properly consult with Tribal Nations.

⁷ See Comments of the National Congress of American Indians (NCAI), WC Docket No. 11-42, *et al.*, 8 (filed Aug. 31, 2015) (NCAI Comments); *see also* Comments of Statement of Hon. Gary Batton, Chief, Choctaw Nation of Oklahoma, WC Docket No. 11-42, *et al.*, 2 (filed Aug. 31, 2015) (Choctaw Nation Comments); *see also* Comments of the Nez Perce Tribe, WC Docket No. 11-42, *et al.*, 3-4 (filed Aug. 31, 2015) (Nez Perce Tribe Comments).

⁸ NCAI Comments at 1 (emphasis added).

⁹ Choctaw Nation Comments at 2.

¹⁰ See Nez Perce Tribe Comments at 4 (emphasis added).

¹¹ See Choctaw Nation Comments at 2 (“It is a perversion to use ‘tribal consultation’ as a tribal pacifier. With all due respect, the Choctaw Nation of Oklahoma refuses to be used that way.”).

B. The Map Adopted by the Commission to Redefine Oklahoma Tribal Lands Lacks Clear Boundaries

Because the Commission’s decision to redefine Tribal Lands in Oklahoma through the adoption of a new map came with a promise by the agency to do a post hoc consultation – which could result in an entirely different outcome – and, at the same time, launched a 180-day transition period to that uncertain result – many stakeholders are concerned and confused.¹² Fifty days into this transition period, stakeholders do not know whether the Commission’s post hoc consultation will change its view on what constitutes Tribal lands in Oklahoma. Even if stakeholders were to assume that the consultation has had (or will have) no effect on the Commission’s decision to adopt the Oklahoma Historical Map, stakeholders lack information necessary to implement it.

Even the Public Utility Division (PUD) of the Oklahoma Corporation Commission (OCC), which had advocated in the past for adoption of a different definition and map, joined Tribal Nations and Assist and Easy in asking the Commission to effectively hit the pause or “go-back” button.¹³ Assist and Easy share PUD’s concern that the Commission must coordinate to “ensure the accuracy and operational effectiveness of the boundaries” of the new map (or any other map the Commission decides to adopt after its post hoc consultation) *before* setting forth on a transition plan for affected consumers.¹⁴

¹² See Assist and Easy Comments at 10-11.

¹³ See Comments of Public Utility Division of the Oklahoma Corporation Commission, WC Docket No. 11-42, *et al.*, 19-20 (Aug. 31, 2015) (PUD Comments) (stating that if the Commission cannot provide an electronic representation of the new map “PUD would support an extension of the transition period beyond the current 180 days so as to allow an electronic medium depicting the new boundaries to be fully developed and implemented.”).

¹⁴ PUD Comments at 18-19, *citing* Second FNPRM ¶ 265.

Although the Commission directed ETCs to work with the OCC to ensure that consumers have sufficient information regarding how the new map's "boundaries" will affect them, it neglected to take notice that the ancient map it recently discovered and adopted does not have clear boundaries. In order to plan a transition and to provide consumers with meaningful notice, Oklahoma state regulators and ETCs *first* must have clear boundary lines to use in making determinations regarding whether a particular subscriber address is located on or outside of Tribal lands. The Oklahoma Historical Map simply does not provide this information. The map does not identify current Oklahoma county lines or include any GIS or other geographic information to identify the boundaries. Further, the notes included on the map are for the most part inscrutable. As a result, Assist and Easy and the PUD have asked the Commission to provide an electronic representation or mapping tool for ETCs and PUD to determine whether a specific address is eligible for enhanced Lifeline support.¹⁵

Without such a tool, the PUD correctly asserted that it will be nearly impossible to accurately distribute standard and enhanced Lifeline benefits in Oklahoma.¹⁶ Assist and Easy also agree with the PUD that any attempt to partially implement the new boundaries for easily identifiable areas to meet the deadline must be avoided.¹⁷ Randomly implementing some of the new boundaries, such as excluding Oklahoma City from the enhanced Lifeline program, but not others that are more difficult to define, is arbitrary, highly discriminatory and would lead to even more consumer confusion and unnecessary added disruption.¹⁸ Because the Commission has not provided clear information as to the exact boundaries for the new Tribal lands map in Oklahoma,

¹⁵ *See id.* at 19; *see also* Assist and Easy Comments at 11.

¹⁶ *See id.*

¹⁷ *See id.*

¹⁸ *See id.*

the most reasonable course of action for the Commission to take at this point is to suspend or extend the transition period.

Assist and Easy have been in close communication with the PUD regarding how to implement the Commission's new Oklahoma Tribal lands definition. On September 24, 2015, the PUD issued a Notice of Inquiry (NOI), signed by the OCC seeking information from the industry on the best means to implement the new Oklahoma Tribal map.¹⁹ Assist and Easy intend to respond to the NOI and will work cooperatively and diligently with the PUD in that proceeding. One aspect of the PUD's NOI, though well-intended, has added some confusion – or at least highlights the current state of confusion. In the NOI, the PUD identifies yet another map, this one released by the Internal Revenue Service (IRS) and the Department of the Interior (the IRS Map), and asks whether the IRS Map is “consistent with the Oklahoma Historical Map” and, if so, whether its description be used to define the geographic boundaries separating newly designated non-Tribal areas in Oklahoma from the rest of Tribal lands in the state.²⁰ Clearly, if the Commission intended to adopt the IRS Map, it could have done so (it didn't). Yet, because the Commission has created so much uncertainty (where there was none before), ETCs and the PUD will surely spend scarce time and resources looking at that map, too.

To enable the PUD and ETCs to properly plan a transition, the Commission should stop the clock so that it can provide a mapping tool to ETCs, or work with ETCs and the PUD to

¹⁹ *In re: Inquiry of the Oklahoma Corporation Commission to Identify and Resolve Issues Related to the Federal Communications Commission Second Further Notice of Proposed Rulemaking As it Affects the Requirements Associated with the Provision of Lifeline Service in Oklahoma, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order*, Notice of Inquiry, Public Utility Division, Cause No. PUD 201500350 (rel. Sept. 24, 2015).

²⁰ *Id.* at 2.

develop one. Should the Commission elect the latter, both it and the OCC should approve the tool prior to ETCs commencing new enrollments and implementing it with respect to existing enrollments.²¹ Further, use of the tool must serve as a “safe harbor” for all enhanced Lifeline enrollments in Oklahoma.

II. Wireless Resellers Are Essential to Realizing the Enhanced Lifeline Program’s Primary Goal of Providing Access to Affordable Modern Communications Services on Tribal Lands

In their initial comments, Assist and Easy explained that wireless resellers are critical to providing affordable wireless communications on Tribal lands and should remain eligible to provide enhanced Lifeline benefits to Lifeline-eligible subscribers.²² The record reveals that most, although not all, commenters representing Tribal Nations agree on the importance of wireless resellers. The record also shows that competition from wireless resellers can spur facilities-based providers to improve existing network facilities and service offerings on Tribal lands. Commenters supporting the Commission’s proposal to limit eligibility to provide enhanced Lifeline benefits to facilities-based providers offer no explanation as to how low-income Tribal consumers would benefit from that decision and appear to be motivated by the prospect of more funding or less competition. Assist and Easy urge the Commission to refrain from any action that would deny Tribal residents access to the affordable service offerings of wireless resellers.

²¹ The Commission also should consider grandfathering existing enhanced Lifeline customers that would no longer be eligible for enhanced Lifeline benefits.

²² See Assist and Easy Comments at 14-16.

A. Wireless Resellers Provide Tribal Residents with Affordable Access to Tier 1 Wireless Network Facilities

In their initial comments, Assist and Easy explained that, although none of the Tier 1 wireless network providers are providing, or are even authorized to provide, Lifeline service to Oklahoma consumers, these providers serve a valuable role by providing access to their Oklahoma facilities through wholesale relationships with wireless resellers, such as Assist and Easy.²³ The result is a resounding win for the providers, wireless resellers and Lifeline-eligible consumers on Tribal lands, including in Oklahoma where it appears that not a single Lifeline subscriber receives service from a facilities-based wireless service provider today.

Indeed, the record shows that some Tribal Nations value the role wireless resellers in providing affordable access to Tier 1 wireless networks. For example, the Navajo Nation Telecommunications Regulatory Commission (NNTRC), representing the largest American Indian Nation in terms of geographic size, reported that AT&T, Sprint and Verizon are not authorized to provide wireless Lifeline service to eligible, low-income subscribers on the Navajo Nation.²⁴ NNTRC also explained that several wireless resellers serve the Navajo Nation and recognized that competition from wireless resellers has caused facilities-based providers to improve their service offerings.²⁵ Similarly, the Oglala Sioux Tribe observed that where

²³ See Assist and Easy Comments at 19.

²⁴ See Comments of the Navajo Nation Telecommunications Regulatory Commission (NNTRC), WC Docket No. 11-42, et al., 10 (filed Aug. 28, 2015) (NNTRC Comments) (NNTRC did not identify whether T-Mobile is providing service; however, CGM, LLC industry statistics indicate that, as of June 2015, T-Mobile USA Inc. does not have any Lifeline subscribers).

²⁵ See NNTRC Comments at 10 (“It is highly likely that without Tier 4 support, these wireless resellers would simply stop providing Lifeline service to the Navajo Nation. Reducing carrier competition will only lead to worse service and more limited service offerings, and ultimately, fewer Navajos who have phones.”).

facilities-based wireless carriers are providing Lifeline service to Tribal subscribers, their penetration rate is very low (and is trending lower).²⁶ In response to this reality, the Oglala Sioux Tribe has recognized that wireless resellers can fill an important need for residents of Tribal lands.²⁷

B. The Record Contains No Evidence to Suggest that the Commission’s Proposal to Render Wireless Resellers Ineligible to Provide Enhanced Lifeline Services Would Advance the Goal of Increased Subscribership through Affordable Access

In their initial comments, Assist and Easy explained that wireless resellers spur demand for facilities and increase subscribership on Tribal lands by providing affordable access to Lifeline-eligible residents.²⁸ Some commenters that supported restricting wireless resellers from providing enhanced Lifeline support did so based on the errant assertion that the goal of the enhanced Lifeline benefit is deployment of infrastructure.²⁹ Some commenters just seem to like the idea of channeling more money to carriers who own facilities (with hardly a mention of how that translates into affordable service for Lifeline-eligible residents of Tribal lands). For example, the PUD asserted its preference that only ETCs deploying or building a network on

²⁶ See Comments of the Oglala Sioux Tribe Utility Commission, WC Docket No. 11-42, et al., Attachment at 3 (filed Aug. 31, 2015) (Oglala Sioux Comments) (“based on USAC projections there were 6,869 Lifeline subscribers” served on the Pine Ridge Reservation by facilities-based carriers (AT&T Mobility, Golden West and Fort Randall Telephone Company) in 2005. By the third quarter of 2014, that number had shrunk to a mere 694 subscribers on the reservation.)

²⁷ See Oglala Sioux Comments at 2.

²⁸ See Assist and Easy Comments at 18-20.

²⁹ See PUD Comments at 13; see also Comments of South Dakota Telecommunications Association (SDTA), WC Docket No. 11-42, et al., 1-2; cf Assist and Easy Comments at 16-18.

Tribal lands should be eligible for enhanced Lifeline support.³⁰ The PUD's preference is based on its view that wireless resellers are marketers and not network innovators.³¹

While it is true that many wireless resellers have proven expertise in marketing Lifeline services to eligible consumers, it is not true that providers such as Assist and Easy are not service innovators. As explained in their initial comments, Assist and Easy each have developed robust service offerings that include smartphones, enhanced customer care, and access to voice, text and broadband.³² The result of this innovative approach to connecting eligible subscribers to the enhanced Lifeline program, is that, by the PUD's own statistics, nearly 90 percent, of Lifeline support in Oklahoma is provided to consumers by wireless resellers,³³ and Oklahoma enjoys a 62 percent Lifeline program participation rate which is among the best in the nation.

Although the PUD stated that there are facilities-based wireless ETCs in Oklahoma (not any of the Tier 1 wireless network operators), these providers do not appear to have any Lifeline subscribers. Since most facilities-based wireless providers have not focused on serving Lifeline-eligible Tribal residents directly, the Commission's proposal to eliminate wireless resellers from participating in the program could result in significant line loss and decreased network demand for the facilities-based wireless carriers providing wholesale access to wireless reseller ETCs in Oklahoma. Thus, adoption of the Commission's proposal likely would decrease incentives for those providers to improve existing network facilities or to build-out more in Tribal areas.

Finally, the record is virtually silent on the potential impact of the Commission's facilities-based only proposal would have on Lifeline-eligible residents of Tribal lands in

³⁰ See PUD Comments at 13.

³¹ See *id.* at 3.

³² See Assist and Easy Comments at 6-8.

³³ See PUD Comments at 3.

Oklahoma. Today, more than 80 percent of enhanced Lifeline subscribers in Oklahoma choose the services of wireless resellers. Fewer than 1 in 5 chooses a wireline solution. Before telling those wireless reseller subscribers that they cannot choose for themselves or that they must choose differently with respect to communications services and providers, the Commission must carefully study the potential impact of its proposal on these subscribers and whether the proposal would better serve the program's goal of providing affordable access to a full array of modern communications services. Assist and Easy submit that the PUD's statistics indicate that the potential harm to consumers that would result from the adoption of the Commission's proposal would be significant and widespread.

III. No Reasonable Justification Exists for Restricting Consumers in Densely Populated Tribal Areas From Receiving Enhanced Lifeline Benefits

In their initial comments, Assist and Easy opposed the Commission's proposal to restrict densely populated areas on Tribal lands with more than 10,000 people from receiving the enhanced Lifeline benefit because population density is an arbitrary factor with no apparent bearing on the program's primary goal of increasing subscribership on Tribal lands through affordable access to communications.³⁴ The overwhelming majority of Tribal Nations commenting agreed with this position.³⁵ The NCAI stated that "[m]any residents of tribal lands across the country would experience detrimental circumstances" if the Commission's proposal is adopted.³⁶ Additionally, NCAI reported that, "[m]any tribal lands border urban, suburban or

³⁴ See Assist and Easy Comments at 11.

³⁵ See, e.g., NCAI Comments at 1 (noting that it was evident from the Second FNPRM "that the enhanced tribal Lifeline support was a primary fixture – if not a blatant target – in the Commission's proposed and adopted reforms of the program.); see also NNTRC Comments at 12; Choctaw Nation Comments at 2-3; Nez Perce Tribe Comments at 3.

³⁶ *Id.* at 6.

metropolitan areas, but their proximity to these areas does not always correlate to increased economic opportunity.”³⁷ Similarly, the Nez Perce Tribe argued that the FCC’s attempt to distinguish between urban and rural areas is inconsistent with the FCC’s objectives for the Lifeline program and that “urban areas within Tribal lands provide economic centers and in turn job opportunity.”³⁸ In light of the diverse geographic locations and constructions of Tribal lands across the United States, the Commission’s attempt to redline certain areas based on an arbitrary population criteria is discriminatory, fails to respect that sovereignty of Tribal Nations and must be rejected.

Assist and Easy agree with the Alaska Rural Coalition (ARC) that the provision of enhanced Lifeline benefits must focus on the primary goal of the enhanced Lifeline program – the *affordability* of communications services for low income residents.³⁹ The Commission’s current proposal would ignore these factors and instead focus on population as an arbitrary guidepost. Assist and Easy share ARC’s position that before the Commission concludes that low-income Tribal residents in urban areas should receive a reduced Lifeline benefit, it must develop the record to demonstrate that Lifeline-eligible consumers in urban areas have greater access to affordable communications.⁴⁰ Without any evidence, the Commission’s proposal to single out targeted areas to revoke enhanced Tribal support seems discriminatory. Further, any

³⁷ *Id.* (NCAI provided the example of the Pueblo of Laguna that spans across four counties and borders of Albuquerque, New Mexico. While Albuquerque is an urban area, the Laguna Pueblo has a median income of \$30,156 and 36% of its residents are below the poverty level.).

³⁸ Nez Perce Tribe Comments at 3.

³⁹ *See* Comments of the Alaska Rural Coalition (ARC), WC Docket No. 11-42, et al., Attachment at 17-18 (filed Aug. 31, 2015) (ARC Comments).

⁴⁰ *See id.* at 18.

review must treat all Tribal lands equally – any population criteria must apply equally to Tribal lands in Oklahoma and in other states.

As Assist and Easy explained in their initial comments, Oklahoma’s relatively unique Tribal history makes the Commission’s proposal particularly impactful on residents of Tribal lands in Oklahoma.⁴¹ Similarly, the Choctaw Nation asserted in its comments that the Commission’s proposal fails to recognize that entire state of Oklahoma was designated “Indian Territory” by the United States government and the Commission must honor that designation,⁴² as it did in its decisions in 2000 and 2003.⁴³ Because of the nature of the Indian Territory, many different tribes were pushed into Oklahoma to develop homelands. As a result, the Choctaw Nation, like other tribes in Oklahoma, “continue to live in scattered communities and neighborhoods throughout all of Oklahoma.”⁴⁴ The Commission must develop both a complete record and a related justification before it takes action that could negatively impact a large number of enhanced Lifeline subscribers.

While no commenters provided outright support for the Commission’s population density proposal, the NNTRC, while opposing the Commission’s proposal to limit enhanced Tribal support to locations with less than 10,000 people, suggested an alternative but not less arbitrary method for redlining certain Tribal residents out from Tribal lands eligible to receive enhanced

⁴¹ See Assist and Easy Comments at 36.

⁴² See Choctaw Nation Comments at 2.

⁴³ See *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, FCC 00-208, ¶ 44 (2000); see also *Federal-State Joint Board on Universal Service et al.*, Twenty-Fifth Order on Reconsideration, Report and Order, Order, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10958 (2003).

⁴⁴ *Id.*

Lifeline support – a county-based rather than city-based population density.⁴⁵ The NNTRC explained this method would protect the NNTRC’s cities but would still allow the Commission to address the “Oklahoma problem.”⁴⁶ The Commission should reject this alternative as it unreasonably targets a particular area of Tribal lands and would create a patchwork of incoherent regulation that disregards history and the sovereignty of Tribal Nations. Like Alaska and Hawaii, Oklahoma has a unique Native American history that should not be labelled or treated as though it is a “problem.”

⁴⁵ See NNTRC Comments at 12-13.

⁴⁶ See *id.*

CONCLUSION

Assist and Easy urge the Commission to suspend or extend the 180-day transition period for implementation of the new definition of Tribal lands in Oklahoma, so that it can complete a meaningful consultation with affected Tribal Nations and then provide clarity with respect to the boundaries of whatever map it decides to affirm or adopt, as a result of that consultation. Assist and Easy also urge the Commission to refrain from adopting its proposals to restrict wireless resellers from participating in the enhanced Lifeline program and to remove urban areas from the definition of Tribal lands. Adoption of these proposals would be contrary to the primary goals of the enhanced Lifeline program and would impose significant harm on Lifeline-eligible residents of Tribal lands in Oklahoma (and elsewhere).

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September 30, 2015