8300 Greensboro Dr.
Suite 1200
McLean, VA 22102

(703) 584-8666
WWW.FCCLAW.COM

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February 1, 2016

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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

Re: *Ex Parte* Notification
WC Docket No. 11-42

Dear Ms. Dortch:

On January 26, 2016, undersigned counsel and Kevin Frawley had a telephonic conversation with Philip Verveer concerning Lifeline reform in the above-captioned proceeding. We explained that the legacy High-Cost and Tribal Lifeline programs have largely been responsible for the company's ability to deploy infrastructure on Tribal Lands. A copy of our presentation materials is enclosed.

Some of the information we provided, including data concerning the company's backhaul facilities and its currently deployed technology, is confidential and proprietary. Accordingly, we are submitting a confidential copy for the Commission's records and a redacted copy for public inspection. The confidential information is identified by bracketing and double underlining.

Information for which confidential treatment is sought

SBI requests that information in the enclosure be treated on a confidential basis under Exemption 4 of the Freedom of Information Act. The information designated as confidential contains commercially sensitive business information concerning the company's network deployment that would be very valuable to SBI's present and future competitors. SBI treats this information as highly confidential and does not share it in any public forum.

The enclosed document is marked "**CONFIDENTIAL – NOT FOR PUBLIC INSPECTION**." Release of the information would have a substantial negative impact on SBI since it would provide competitors with commercially sensitive information.

Commission proceeding in which the information was submitted

The information in the document is being submitted to Commission staff in an ex parte meeting in the above-captioned proceeding.

Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The information in question is competitively sensitive commercial information which is not normally released to the public as such release would have a substantial negative competitive impact on SBI.

Degree to which the information concerns a service that is subject to competition and manner in which disclosure of the information could result in substantial harm

The release of the confidential and proprietary information described above would cause SBI competitive harm by allowing its current and potential competitors to become aware of the facilities SBI uses to transport traffic and the state of its network technology. This information is not currently available to the public and could alert competitors to the scale and scope of the company's infrastructure in a manner not readily available to the public.

Measures taken to prevent unauthorized disclosure and availability of the information to the public and extent of any previous disclosures of the information to third parties

SBI has treated and continues to treat the referenced information as confidential and has protected it from public disclosure to parties outside of the company. SBI has never provided the referenced information to any third party.

Justification of the period during which SBI asserts that the material should not be available for public disclosure

SBI cannot determine at this time any date on which this information should not be considered confidential.

Other information SBI believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission decisions, the information in question should be withheld from public disclosure. SBI would never provide it to any outside party without the assurance that its present and future competitors would not have access to it.

If this request for confidentiality is denied, then it is hereby requested, pursuant to 47 C.F.R. § 0.459(e), that the Commission return to SBI each copy of the enclosed document without consideration.

Please contact the undersigned if you have any questions.

Sincerely,

David A. LaFuria

Counsel for Smith Bagley, Inc.

cc (via e-mail):

Philip Verveer, Esq.
Kevin Frawley, Esq.

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Smith Bagley, Inc.
Lifeline Reform for Tribal Lands

Ex Parte Presentation

January 26, 2016

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8300 Greensboro Drive
Suite 1200
McLean, VA 22102
www.fcclaw.com
(703) 584-8666

Smith Bagley, Inc.

- Facilities-based wireless service provider in Arizona, Colorado, New Mexico and Utah.
- First designated as an ETC in 2000. Now an ETC in Arizona, New Mexico, and Utah.
- 61,000 Lifeline subscribers, most residing on Tribal Lands.
- On Tribal Lands, SBI offers unlimited nationwide calling, nationwide roaming, unlimited texts and picture messages, 500 MB of included mobile data usage, and a free smartphone valued at $49.99, at a monthly cost to the customer of $0.50.
- For many Lifeline subscribers, SBI provides their only connection to the Internet.
- E-Rate participant - 48 schools served with fixed wireless at up to 400 Mbps.

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Extraordinary Challenges for Citizens Living on Tribal Lands

- Poverty rates on Navajo Nation are more than double those in AZ/NM.
- U.S. median household income is nearly double that of people living on the Navajo Nation.
- Severe infrastructure challenges. See, e.g., CBS News report on lack of access to water on Navajo http://www.cbsnews.com/news/the-water-lady-a-savior-among-the-navajo/
- Population density (<5 PPM[2]), remote communities distant from retail and public services, inadequate roads, access to potable water and basic infrastructure, limited personal transportation options (including public transit) lack of adequate postal delivery service.

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Minimum Service Requirements For Tribal Lands Must Not Exclude Existing 3G/HSPA+ Services

- Out of [redacted] cell sites, [redacted] are served by fiber/Ethernet today
- Fiber could be added to [redacted] more cell sites to meet future capacity needs, if economics work (telco charges for fiber exceed $100,000 per mile in some areas)
- Remaining [redacted] sites located multiple microwave hops from nearest fiber - no current prospect for fiber access.
- All cell sites deliver 4/1 Mb today – suitable for streaming video and many commercial applications.

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Minimum Service Requirements For Tribal Lands Must Not Exclude Existing 3G/HSPA+ Services

- Lifeline should allow customers to choose voice, or broadband, or a bundled service offering.
- Minimum broadband throughput requirement must take into account the lack of high-capacity fiber links to carry traffic from cell sites to Internet.
- Any minimum broadband capacity requirement must take into account the lack of reliable WiFi in many Tribal areas with few schools, libraries, and commercial establishments.

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Enhanced Lifeline Funding on Tribal Lands Remains As Critical As Ever

- Annual cost of operating on Tribal Lands exceeds Lifeline revenues.
- Annual capex exceeds High-Cost support, which is going to zero.
- Tribal Lifeline was a key driver in decision to invest over [redacted] in 2012-13 to upgrade to 3G/HSPA^{+}.
- Poor prospects for continued roaming revenues.
- For thousands of SBI customers, there is no broadband alternative.

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Tribal Lifeline Support Must Be Increased To Provide Access in Remote Areas

- Lifeline drives infrastructure investment in remote areas more efficiently than the CAF/RoR program.
- Over a six-year period, a Tribal Lifeline for broadband subsidy of $50.00 would cost $3,600 per customer.
- Over the same six-year period, CAF Phase II Model pays over $10B to cover 4M locations, a cost of $4,934 per customer (assuming a 50% take rate).
- Today, 135,000 facilities-based Tribal Lifeline customers x $15 = annual increase of $24M, assuming every customer takes broadband (0.27% increase in total USF).
- An increase of $15 per month to facilities-based carriers will be an efficient investment in Tribal broadband networks.

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Looking to the Future – Fixed Broadband

- Cost of installing a fixed broadband connection remains an obstacle to broadband adoption.

- A single truck roll, roof or pole install, inside wiring, router install, and training, can consume a full day. Prohibitively expensive in remote areas.

- FCC should permit carriers installing fixed broadband connections on Tribal Lands to apply for up to $250 Tribal Link up reimbursement under §54.414 if auditable invoices for installation services are made available.

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SBI Supports Moving Enrollment and Verification Functions To USAC, With Limited Exceptions

- Generally, USAC or its contractor should determine eligibility, verify duplicates, and enroll consumers.
- Current list of federal/state/Tribal programs must be retained.
- On Tribal Lands, carriers should be permitted to enroll consumers who qualify by income, or by a program not in the database.
  - Language barrier: 20-25% of SBI's Lifeline customers do not speak English.
  - Cultural factors: Tribal populations distrust government, but respond to local outreach.
  - Off the grid: Some Tribal citizens are so remote and have no contact with state agencies.
- Customers enrolled through USAC do not require annual re-certification. Carriers may recertify "off-grid" Tribal citizens via existing methods.
- USAC should retain documents. Far more efficient and secure.

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Non-Usage Rule

- Current 60-day non-usage rule is confusing for customers, disruptive to essential telecommunications service, and burdensome for Lifeline providers.
- On Tribal Lands, many subscribers who are elderly or disabled keep their phone for emergency use or if a distress call is required (e.g., a winter storm); others who lack a regular power source in their residence may keep their phone switched off unless they need to use it.
- Non-usage rule delivers minimal program benefit on Tribal Lands.
- If non-usage rule is retained, the definition of "usage" should include text messages and data usage.

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Benefit Port Freeze

- Extend port freeze to 12 months.
  - Carriers need increased certainty that a return can be made when smartphone is provided.
  - Increased likelihood that a customer stays on for one year helps justify network investments.
  - Reduces "flipping," which reduces costs for carriers and Lifeline program.

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In-Person Handset Distribution on Tribal Lands Is Critically Important to Access

- SBI's Tribal customer base is <5 people per square mile, spread over area the size of West Virginia, many living up to 100 miles from a store.
- Limited USPS delivery – many travel up to 40 miles to Post Office.
- Lack of computer access makes Internet or mail order sign-up unworkable.
- In-person enrollment and distribution of handsets, including on-site training, is critical. SBI cannot enroll Tribal customers and then send them away empty-handed.

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Questions

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