

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

WASHINGTON HARBOUR, SUITE 400

3050 K STREET, NW

WASHINGTON, D.C. 20007-5108

(202) 342-8400

FACSIMILE

(202) 342-8451

www.kelleydrye.com

NEW YORK, NY

LOS ANGELES, CA

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES

MUMBAI, INDIA

DIRECT LINE: (202) 342-8544

EMAIL: jheitmann@kelleydrye.com

February 24, 2016

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Easy Telephone Services Company d/b/a Easy Wireless
Notice of Ex Parte Presentation; WC Docket Nos. 11-42, 09-197, 10-90**

Dear Ms. Dortch:

On Monday, February 22, 2016 and Tuesday, February 23, 2016, Joseph Fernandez, Jose Cortes and Josh Willett for Easy Telephone Services Company d/b/a Easy Wireless (Easy Wireless or the Company), Chuck Campbell of CGM, LLC (CGM), and John Heitmann and Dawn Damschen of Kelley Drye & Warren LLP and on behalf of Easy Wireless attended two meetings with Commission staff to discuss the Lifeline Modernization Further Notice of Proposed Rulemaking.¹ The first meeting on February 22, 2016 was with Gigi Sohn and Stephanie Weiner of the Office of the Chairman, Eric Feigenbaum of the Office of Media Relations, and Trent Harkrader and Charles Eberle of the Wireline Competition Bureau. The second meeting on February 23, 2016 was with Charles Eberle, Nathan Egan, Garnet Hanley, Trent Harkrader, Ryan Palmer and Jay Schwarz of the Wireline Competition Bureau.

¹ See *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, 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).

Marlene H. Dortch, Secretary
February 24, 2016
Page Two

The discussions were consistent with Easy Wireless' comments, reply comments and *ex partes* filed in the proceeding² and the attached presentation distributed at the meetings, and focused on the proposals impacting Lifeline service on Tribal lands, with a significant focus on wireless resellers serving Oklahoma. Easy Wireless representatives discussed the unique market in Oklahoma and the Company's broadband offerings that can be provided to Lifeline eligible subscribers as a result of the Company's substantial base of approximately 40,000 enhanced Tribal Lifeline subscribers in Oklahoma. Easy Wireless also urged the Commission to reject the proposal to restrict wireless resellers from providing the enhanced Tribal Lifeline benefit as well as the proposal to exclude certain Tribal lands, such as Tulsa, Oklahoma, from eligibility for the enhanced Tribal Lifeline benefit.

During the meetings, Easy Wireless representatives discussed the Company's Oklahoma business model that focuses on a storefront presence and a subtending in the community retail model, both in urban areas such as Oklahoma City and Tulsa, as well as in more rural areas of Oklahoma. Easy Wireless also provided information on the voice and broadband offerings the Company offers Oklahoma Lifeline subscribers. These offerings are based on the unique regulatory and competitive environment in Oklahoma and are supported by the Company's substantial customer base in Oklahoma and the enhanced Tribal Lifeline benefit. Lifeline eligible non-Tribal residents can elect a basic plan or they can pay \$25 more for plans made available for Tribal residents eligible for the enhanced Tribal subsidy. Plans also can be supplemented with a variety of voice, text and data "top-ups" starting at \$4.95.

The Company emphasized that wireless resellers are an essential part of the wireless Lifeline ecosystem serving low-income Tribal communities. As a wireless reseller, Easy Wireless has leveraged the existing Tier 1 facilities and networks to provide Lifeline services throughout its authorized serving territory in Oklahoma. While the Tier 1 wireless carriers have extensive network coverage of Oklahoma's Tribal lands, those providers do not provide Lifeline service. Instead, through wholesale relationships, they rely on resellers such as Easy Wireless to bring Lifeline-eligible low-income subscribers onto the networks. Indeed, CGM estimates that 98 percent of all Oklahoma Tribal Lifeline wireless subscribers are served by wireless resellers. CGM also estimates that wireless resellers serve greater than 90 percent of Tribal Lifeline subscribers in Oklahoma. Without wireless resellers, the vast majority of Tribal Lifeline wireless subscribers would be left without a wireless option. These statistics plainly show that removing wireless resellers from participation in the Tribal Lifeline program in Oklahoma would

² See Comments of Assist Wireless LLC and Easy Telephone Services Company d/b/a Easy Wireless, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015); Reply Comments of Assist Wireless LLC and Easy Telephone Services Company d/b/a Easy Wireless (filed Sept. 30, 2015); Ex Parte of Assist Wireless LLC and Easy Telephone Services Company d/b/a Easy Wireless (filed Jan. 15, 2016); Ex Parte of Assist Wireless LLC and Easy Telephone Services Company d/b/a Easy Wireless (filed Jun. 12, 2015).

Marlene H. Dortch, Secretary
February 24, 2016
Page Three

decimate the Lifeline program in Oklahoma and dramatically undermine the primary purpose of the enhanced Tribal Lifeline benefit which is to increase subscribership to communications services on Tribal lands.

Easy Wireless also urged the Commission to reject the proposal to exclude more densely-populated areas – such as Tulsa, Oklahoma – from the definition of Tribal lands. The enhanced Tribal Lifeline benefit was created with the primary goal of increasing the affordability of communications services for low-income residents of Tribal lands. Like Alaska, Oklahoma has a unique history and Tribal heritage – the Native American population is large and dispersed throughout much of the populated areas of the state. While Tulsa and other urban centers serve as critical economic hubs for Tribal communities, the relative density of population has no bearing whatsoever on the price of most communications service offerings or the ability of low-income residents of Tribal lands to afford them.³ Oklahoma’s Tribal Nations have said as much

³ The same can be said for Anchorage, Alaska and other more densely populated economic hubs for Native American populations. *See, e.g.*, Reply Comments of the Regulatory Commission of Alaska Reply, WC Docket No. 11-42 *et al.* at 7, 9-10 (filed Sept. 29, 2015) (“Natives living in more urban areas of Alaska are in any way better off economically than those living in more rural parts of the state. The RCA hopes the FCC will view Anchorage and its surrounding areas with a much wider lens, taking in the state of telecommunications infrastructure that surrounds it.”); *see also* Comments of the Alaska Rural Coalition, WC Docket No. 11-42 *et al.* at 18 (filed Aug. 31, 2015) (“Consumers on Tribal lands already face a gap in service and inherent cultural disadvantages, and the Commission should not reduce the benefits they receive simply because they live in a more populated area. ... The ARC believes singling out more populated areas sets a dangerous precedent that will ultimately harm service on Tribal lands.”); Native Nations Broadband Task Force Reply Comment, WC Docket No. 11-42 *et al.* at 6-7 (filed Sept. 28, 2015) (“By suggesting that issues of waste, fraud, and abuse issue should be solved through uniformed and unilateral redesign of the Tribal lands borders based upon an undefined level of population density is an uninformed and blatant attack on Tribal communities and the sovereignty of Tribal Nations.... Certain urban areas within Tribal lands provide economic centers and job opportunities, in addition to opportunities for educational attainment and workforce development. As the Commission has insultingly referenced the ‘truly poor’ time and again, the Commission’s proposal here would say to poor Tribal members that they should remain poor and rural....”); Reply Comments of the National Tribal Telecommunications Association, WC Docket No. 11-42 *et al.* at 6-7 (filed Sept. 30, 2015) (“There is no established correlation between income levels and population density. The economic conditions on Tribal lands leading to the Commission’s 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.”); Comments of the Nez Perce Tribe, WC Docket No. 11-42 *et al.* at 3 (filed Aug. 31, 2015) (“Although the Nez Perce Tribe does not have incorporated communities with a population of 10,000, the statement made by Commissioner [Pai] suggesting the exclusion of areas with a population density of 15 person per square mile could eliminate the few incorporated communities across the Reservation from eligibility. We oppose this line of logic as it is clear to us that the intent of the Enhanced Lifeline program is to subsidize connectivity to all low-income consumers living on tribal lands.”); Comments of National Congress of

Marlene H. Dortch, Secretary
February 24, 2016
Page Four

in mounting uniform opposition to the proposal to carve-out Tulsa from Tribal lands in Oklahoma.⁴ Further, any line drawn based on population density would be arbitrary, as the record contains no evidence whatsoever that Lifeline eligible residents of Tulsa are better able to afford and stay connected to communications services than those in rural Nuyaka, Oklahoma or non-rural Anchorage, Alaska, or those Lifeline eligible consumers who live on a reservation near any of several cities in the western United States or those who live on more remote reservations. Affordability is an acute challenge for low-income Tribal residents regardless of whether they reside in urban or rural places.

Finally, Easy Wireless discussed its support for proposals to streamline the review and processing of compliance plans and streamline procedures for securing ETC designations to provide Lifeline services in more states.⁵

American Indians, WC Docket No. 11-42 *et al.* at 5 (filed Aug. 31, 2015) (“Many residents of tribal lands across the country would experience detrimental circumstances if a proposal to limit the enhanced tribal subsidy to sparsely populated areas is adopted. For instance, the Pueblo of Laguna spans across four counties and borders Albuquerque, NM, a city with a 2013 population estimate of 556,833 people....Many tribal lands border urban, suburban, or metropolitan areas, but their proximity to these areas does not always correlate to increased economic opportunity for residents, or increased access to affordable or advanced telecommunications services on tribal lands.”)Reply Comments of the Confederated Tribes of the Colville Reservation WC Docket No. 11-42 *et al.* at 7 (filed Sept. 30, 2015); Reply Comments of the Affiliated Tribes of Northwest Indians, WC Docket No. 11-42 *et al.* at 7 (filed Sept. 30, 2015);

⁴ See, e.g., Statement of Hon. Gary Batton, Chief, Choctaw Nation of Oklahoma, WC Docket No. 11-42 *et al.* at 2-3 (filed Aug. 7, 2015) (“[W]e must remind the FCC that many of the thousands of Choctaw families who live in urban Oklahoma areas like Oklahoma City or Tulsa reside in lower-income neighborhoods that are nearly as isolated from telephone service infrastructure as are Choctaw families in rural southeastern Oklahoma.”).

⁵ See Comments of the Lifeline Joint Commenters, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015) (Easy Wireless signed onto the Joint Commenters’ comments and supports these proposals).

KELLEY DRYE & WARREN LLP

Marlene H. Dortch, Secretary
February 24, 2016
Page Five

This letter is being filed electronically for inclusion in the public record of the above-referenced proceedings. Please feel free to contact the undersigned with any questions.

Respectfully submitted,



John J. Heitmann
Dawn R. Damschen

*Counsel to Easy Telephone Services Company
d/b/a Easy Wireless*

Enclosure

cc: Charles Eberle
Nathan Egan
Eric Feigenbaum
Garnet Hanley
Trent Harkrader
Ryan Palmer
Jay Schwarz
Gigi Sohn
Stephanie Weiner