

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

In the Matters of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service;)	
Promoting Deployment and)	
Subscribership in Unserved)	
and Underserved Areas, Including)	
Tribal and Insular Areas)	
)	
Commonwealth of Northern Mariana Islands)	
)	
Petitions for Reconsideration filed by:)	
Crow Tribal Council)	
Florida Public Service Commission)	
Goshute Indian Reservation)	
National Telephone Cooperative Association)	
Oglala Sioux Tribe)	
Rosebud Sioux Tribe)	
South Dakota Independent Telephone)	
Coalition)	
Western Wireless Corporation)	

**INITIAL COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)¹ hereby submits its initial comments in the above captioned proceeding.² NTCA applauds the

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 560 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

Commission for efforts to improve telephone service in unserved and underserved areas. However, as the Commission revisits the issue of extending enhanced Lifeline and Link Up programs to “near reservation” areas, NTCA urges the Commission to reaffirm its jurisdictional rules on the designation of eligible telecommunications carriers (ETCs) on tribal and “near reservation” lands.

In its *Twenty-Fifth Order* the Commission agreed with NTCA’s petition that the Commission’s rationale for adopting a separate designation framework for carriers seeking ETC designation on tribal lands does not extend to “near reservation” areas as defined by the Bureau of Indian Affairs.³ Because these areas often extend substantially beyond the exterior boundaries of reservations, the FCC does not believe they invoke the same jurisdictional concerns and principles of tribal sovereignty associated with areas within the exterior boundaries of reservations.⁴

Carriers seeking ETC designation on any “near reservation” lands as defined by the Commission must follow the procedures adopted in the *Twelfth Report and Order* for non-tribal lands prior to submitting a request for designation to the FCC under Section 214(e)(6).⁵ These rules require a carrier seeking ETC designation for non-tribal areas to provide the Commission with an “affirmative statement from a court of competent

² *In the Matter of Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas; Common Wealth of Northern Mariana Islands; Petitions for Reconsideration filed by: Crow Tribal Council, Florida Public Service Commission, Goshute Indian Reservation, National Telephone Cooperative Association, Oglala Sioux Tribe, Rosebud Sioux Tribe, South Dakota Independent Telephone Coalition, Western Wireless Corporation*, CC Docket No. 96-45, FCC 03-115, *Twenty-fifth Order on Reconsideration, Report and Order, Order, and Further Notice of Proposed Rulemaking* (rel. May 21, 2003).

³ See, NTCA Petition for Reconsideration of *Twelfth Report and Order* (filed September 5, 2000).

⁴ *Twenty-Fifth Order on Reconsideration, Report and Order, Order, and Further Notice of Proposed Rulemaking*, ¶40.

⁵ *Id.*

jurisdiction or the state commission that it lacks jurisdiction to perform the designation.”⁶

In other words, a carrier may not petition for ETC designation with the Commission until it has a written statement from the state in question that the state lacks the authority to act on the ETC designation request.

Prior to the Commission’s *Twenty-Fifth Order on Reconsideration* resolving jurisdictional issues concerning ETC designation on tribal lands, some providers had used the ambiguities in the rules to bypass state commissions and file directly with the Commission. NTCA is concerned that if and when the Commission extends the enhanced low-income universal service programs to “near reservation” areas the jurisdictional lines will once again become blurred.

For the reasons stated above, NTCA urges the Commission to reaffirm and remind parties of its rules in any order expanding the enhanced low-income programs to non-tribal lands.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
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⁶ Twelfth Report and Order, ¶ 113.

CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in CC Docket No. 96-45, FCC 03-115 was served on this 15th day of August 2003 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail Malloy

Gail Malloy

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