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Federal Communications Commission
Office of the Secretary

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

In the Matter of)
)
SMITH BAGLEY, INC.)
)
Petition for Rulemaking)
Regarding the Expansion of)
Support Available Pursuant to the)
Fourth Tier of the Universal)
Service Lifeline Program)

RM - _____

ORIGINAL

PETITION FOR RULEMAKING

Regarding

**THE EXPANSION OF SUPPORT AVAILABLE PURSUANT TO THE FOURTH
TIER OF THE UNIVERSAL SERVICE LIFELINE PROGRAM**

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SUMMARY

Smith Bagley, Inc. (“SBI”), requests the Commission to initiate a rulemaking proceeding for the purpose of expanding the fourth tier of the Universal Service Fund Lifeline program, by increasing the level of monthly support available to qualifying low-income telephone subscribers by \$5.00, thus raising the overall amount of monthly support available under the Tier 4 program to \$30.00.

SBI commends the Commission for its effective administration of the Tier 4 program and for the favorable results that have been achieved since the program was initiated nine years ago. SBI believes, however, that the Commission, pursuant to its commitment to monitor the Lifeline and Link-Up programs and to make appropriate adjustments to ensure the ongoing effectiveness of these programs, should act now to bolster the support provided by the Tier 4 program.

The conditions faced by people residing on tribal lands, which prompted the Commission’s decision to establish the Tier 4 support program, continue to pose serious obstacles to the deployment of high-quality telecommunications services as well as to efforts to raise the level of telephone subscribership in tribal communities. These conditions—including severe poverty, low income levels, high levels of unemployment, the geographic isolation and remoteness of many tribal lands, the numerous health issues faced by tribal populations, and the lack of access to adequate medical care and services on many tribal lands—underscore the unique problems that continue to undermine the standard of livability in tribal communities. These substantial and ongoing problems warrant further Commission intervention, so that affordable and sufficient telecommunications services can be made more readily available on tribal lands.

Expansion of the Tier 4 program, as proposed by SBI, would reinvigorate a support mechanism that has shown a capacity for improving the availability and quality of telecommunications services on tribal lands. Expanded Tier 4 support would enable SBI and other eligible tele-

communications carriers to increase the quantity of service available to residents of tribal lands by increasing included minutes on Lifeline rate plans and by increasing investment in infrastructure and telecommunications networks serving tribal communities. Increasing the level of Tier 4 support would also encourage competitive entry, making it more economically feasible for competitive ETCs offering alternative technologies to invest in infrastructure to serve tribal communities.

Market entry and increased levels of investment, made possible by expansion of the Tier 4 program, would directly improve access to telecommunications services and would also help to raise subscribership levels on tribal lands, bringing them closer to subscribership levels throughout the country. Additional benefits include enhancing the availability of medical and emergency services, and helping to stimulate economic development. All these advantages flowing from an enhanced Tier 4 program would serve the ultimate goal of improving the standard of living in tribal communities.

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Smith Bagley, Inc. (“SBI”), by counsel and pursuant to Section 1.401 of the Commission’s Rules,¹ hereby petitions the Commission to initiate a rulemaking for the purpose of revising its universal service rules relating to low-income support programs.

Specifically, SBI petitions the Commission to issue a Notice of Proposed Rulemaking, seeking comment on revising rules that have been adopted by the agency for the purpose of enhancing access to telecommunications services and improving the level of subscribership among

¹ 47 C.F.R. § 1.401. Section 1.401(a) of the Commission’s Rules provides that “[a]ny interested person” may petition the Commission for the issuance, amendment, or repeal of a rule or regulation. SBI’s interest is established by the fact that SBI is actively engaged as a competitive eligible telecommunications carrier (“ETC”) in the provision of services to qualified low-income subscribers in tribal communities.

low-income residents living on American Indian and Alaska Native reservations and other lands (“tribal lands”),² by increasing the fourth tier of federal Lifeline support (“Tier 4”) by an additional \$5.00 per month, so that Tier 4 support provides up to \$30.00 per month (in addition to other available Lifeline support) per primary residential connection for qualifying individuals. For the Commission’s convenience, the proposed rule change is set forth at Exhibit A attached hereto.

I. INTRODUCTION.

SBI, which is licensed to provide cellular radiotelephone service and personal communications service (“PCS”) throughout portions of Arizona, New Mexico, Utah, and Colorado, has substantial experience in bringing wireless telecommunications services to consumers living on tribal lands. SBI has been designated as an ETC in Arizona, New Mexico, and Utah, and is engaged in providing telecommunications services throughout the Navajo Nation and also on the tribal lands of the Hopi Nation, and of the White Mountain Apache, Ramah Navajo, and Pueblo of Zuni tribes.

SBI is submitting this Petition for Rulemaking (“Petition”) because it believes that, although Tier 4 of the Commission’s Lifeline program has been helpful in increasing the opportunity for consumers living on tribal lands to subscribe to telecommunications services, further steps by the Commission are needed to ensure that the universal service goals of the Communications Act of 1934 (“Act”) are realized and that the Universal Service Fund (“USF”) support

² For purposes of this Petition for Rulemaking, the term “tribal lands,” together with the terms “Indian tribe” and “reservation,” have the meanings given them by the Commission in *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriberhip in Unserved and Underserved Areas. Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12217-19 (paras. 16-19) (2000) (subsequent history omitted) (“*Twelfth Report and Order*”).

mechanisms will continue to be an effective tool in addressing the challenges faced by Indian tribes living on reservations and other tribal lands.

II. SCOPE OF THE PROBLEM.

Increasing Tier 4 support by an additional \$5.00 per month would have a beneficial effect in part because it would increase the ability of competitive ETCs to offer a larger quantity of service, at affordable prices, to persons living on tribal lands. In SBI's particular case, the crushing poverty of many households living on tribal lands, together with the forbidding terrain that characterizes most tribal lands, presents daunting challenges that make high-quality and affordable service difficult to deliver.

The Company has taken the initiative to offer Tier 4 Lifeline benefits on the tribal lands where it has been designated as an ETC, helping to increase subscribership levels and providing members of Indian tribes with at least some opportunity to keep pace with other consumers in realizing the benefits of competition and technological advances in the telecommunications industry. But the problems faced by residents of tribal lands continue to be severe. These problems—including pervasive poverty, low income levels, high levels of unemployment, geographic isolation, and staggering medical problems and health care issues—continue to make it difficult for subscribership levels on tribal lands to reach parity with the Nation as a whole. The cumulative impact of these problems makes the challenges faced by carriers attempting to serve tribal lands virtually unique, underscoring the importance—and the urgency—of continuing and enhancing the Commission's efforts to assist the deployment of telecommunications services on tribal lands.

Increasing the level of Tier 4 support would provide a substantial boost to the Commission's efforts to improve access to telecommunications services and subscribership levels in tri-

bal communities. The Commission has been committed to monitoring its USF support programs and taking action when necessary or appropriate, and SBI believes that the time has come for the Commission to expand Tier 4 support. Such an expansion would provide numerous benefits, including improvement of access to telecommunications services on tribal lands, enhancement of the offering of services by competitive ETCs using alternative technologies, further assistance in solving problems associated with limited local calling areas on tribal lands, and acceleration of the delivery of economically efficient, lower-cost services on tribal lands.

III. THE CURRENT TIER 4 PROGRAM.

Nine years ago the Commission established Tier 4 Lifeline support to enable residents of tribal lands to receive up to an additional \$25.00 per month in Lifeline support, bringing the monthly cost of local telephone service for residents of tribal lands down to a rate that is as low as \$1.00 per month (the minimum Lifeline rate).³

Tier 4 is part of a Lifeline support program for low-income consumers. All eligible subscribers receive Tier 1 Lifeline support, which provides a discount equal to the subscriber line charge of the incumbent local exchange carrier serving that customer. Tier 2 support provides an additional \$1.75 per month in federal support, available if the relevant state regulatory authorities approve the reduction. Tier 3 of federal support provides 50 percent of a subscriber's state Lifeline support, up to a maximum of \$1.75. Alternatively, a carrier may contribute Tier 3 support to the consumer in order to generate up to \$1.75 in matching federal funds.⁴

³ *Id.* at 12230 (para. 42).

⁴ *See* 47 C.F.R. § 54.403.

The purpose of the Tier 4 program is to “promote telecommunications subscribership and infrastructure deployment within American Indian and Alaska Native tribal communities”⁵

The Commission surveyed the enormous challenges faced by communities on tribal lands, observed that the statistics reflecting the nature and extent of these challenges “demonstrate[d], most notably, that existing universal service support mechanisms are not adequate to sustain telephone subscribership on tribal lands[,]”⁶ and concluded that the provision of enhanced support for tribal communities was an important step that the Commission should take.

SBI commends the Commission for the leadership it has shown and for the accomplishments that have been realized by the Tier 4 program. But SBI also cautions the Commission not to relax its commitment to improving the delivery of telecommunications services to Indian tribes. The following sections explain that the problems faced by residents on tribal lands are not abating, and that there are compelling reasons for the Commission to strengthen the tools it has put in place to help minimize the extent to which these problems interfere with access to telecommunications services and telephone subscribership in tribal communities.

IV. THE NEED FOR ACTION BY THE COMMISSION.

This section, in addition to providing general information about tribal lands and Indian tribe populations, presents an overview of Commission findings and objectives regarding telephone subscribership and access on tribal lands. SBI also surveys in this section some of the conditions existing on tribal lands that continue to present enormous challenges to Indian tribes and their governing bodies, and that illustrate the compelling need for further action by the Commission.

⁵ *Twelfth Report and Order*, 15 FCC Rcd at 12211 (para. 1).

⁶ *Id.* at 12212 (para. 2).

A. Tribal Lands and Indian Tribe Populations.

As of 2007, there were estimated to be approximately 4.5 million people classified as American Indian and Alaska Native alone or American Indian and Alaska Native in combination with one or more other races.⁷ American Indians and Alaska Natives comprised about 1.5 percent of a total U.S. population of approximately 301.6 million.⁸ By 2050, the American Indian and Alaska Native population (including those of more than one race) is projected to reach 8.6 million, which would comprise 2.0 percent of the overall U.S. population at that time.⁹

In 2007, American Indians and Alaska Natives were the largest race or ethnic minority group in five states (Alaska, Montana, North Dakota, Oklahoma, and South Dakota). California had the largest American Indian and Alaska Native population (689,120), followed by Oklahoma (393,500) and Arizona (335,381). The median age of the single-race American Indian and Alaska Native population in 2007 was 30.3, younger than the median age of 36.6 for the overall U.S. population.¹⁰

A total of 1.9 million American Indians and Alaska Natives live on reservations or other trust lands. Approximately 60 percent of American Indians and Alaska Natives live in metropolitan areas, which is the lowest metropolitan percentage of any racial group in the country.¹¹ As of 2007, there were 562 federally recognized tribes, and more than 100 state recognized tribes.¹²

⁷ U.S. Department of Health and Human Services, Office of Minority Health, American Indian/Alaska Native Profile, accessed at <http://www.omhrc.gov/templates/browse.aspx?lvl=2&lvlID=52> (“HHS-OMH Profile”).

⁸ U.S. Census Bureau, American FactFinder, 2007 Population Estimates.

⁹ U.S. Census Bureau News, “American Indian and Alaska Native Heritage Month: November 2008,” accessed at http://www.census.gov/Press-Release/www/releases/archives/facts_for_features_special_editions/012782.html.

¹⁰ *Id.*

¹¹ HHS-OMH Profile.

¹² *Id.*

B. Commission Findings Regarding Telecommunications Services on Tribal Lands.

The Commission concluded nine years ago that consumers on tribal lands face unique hardships and deprivations that confirm the need for targeted assistance through universal service support mechanisms. The Commission expressed the view that actions it took in the *Twelfth Report and Order* would “ensure a standard of livability for tribal communities[,]”¹³ in part by “helping to bridge the physical distances between low-income consumers on tribal lands and the emergency, medical, employment, and other services that they may need”¹⁴

The Commission recognized in the *Twelfth Report and Order* that “basic telecommunications services are a fundamental necessity in modern society[,]”¹⁵ and also concluded that consumers on tribal lands do not have adequate access to telephone service, “underscor[ing] the need for immediate Commission action to promote the deployment of telecommunications facilities in tribal areas and to provide the support necessary to increase subscribership in these areas.”¹⁶

Two facts in particular show that the Commission’s job is not finished and that Tier 4 support should be enhanced. First, telephone subscribership levels on tribal lands continue to lag behind the national average. Second, carriers continue to find it difficult to expand their service offerings on tribal lands, and this threatens to widen the telecommunications service gap between tribal lands and the rest of the country. These and other factors warranting Commission action are addressed in the following section.

¹³ *Twelfth Report and Order*, 15 FCC Rcd at 12214 (para. 5).

¹⁴ *Id.*

¹⁵ *Id.* at 12212 (para. 3).

¹⁶ *Id.* at 12214 (para. 5).

C. Conditions in Tribal Communities.

Tribal lands are not a microcosm of America. To the contrary, the conditions in which the members of many Indian tribes live are far removed from the standard of living enjoyed by most Americans. These conditions on tribal lands, which can reasonably be expected to grow even worse as a result of the severe downturn currently being experienced by the national economy, reflect the fact that many members of Indian tribes do not share in the benefits, privileges, and opportunities available to many other citizens.

This section will briefly discuss some of these conditions, beginning with telephone subscribership levels on tribal lands, and then turning to others—including poverty levels, income levels, unemployment, geographic isolation, and the health of Indian populations—that either contribute to the suppression of subscribership levels and access to telecommunications services, or are affected by the limited availability of adequate telephone service. SBI believes that the statistics and other information presented in the following sections amply show the need for the Commission to take further action to increase levels of telephone subscribership for Indian tribes and to improve access to telecommunications services in tribal communities.

1. Telephone Subscribership on Tribal Lands.

The Commission observed nine years ago that (based upon 1990 Census data) the national subscribership level for Indians living on reservations was 46.6 percent,¹⁷ compared to a subscribership level of approximately 94 percent for all households in the United States.¹⁸

The 2000 Census revealed an improved picture, but also showed that subscribership levels on tribal lands did not compare favorably with national telephone penetration rates. Based upon its study of 2000 Census data, the Government Accountability Office (“GAO”) concluded

¹⁷ *Id.* at 12223 (para. 25).

¹⁸ *Id.*

that “[d]espite improvements in both deployment and subscribership of telecommunications services, as of 2000, Native Americans on tribal lands *still lag significantly behind* the rest of the nation.”¹⁹ Specifically, “[a]ccording to the 2000 decennial census, the telephone subscribership rate for Native American households on tribal lands in the lower 48 states was 68.6 percent, while for Alaska Native Villages it was 87 percent—both substantially below the national rate of 97.6 percent.”²⁰

The 2000 Census also showed that even the more populous Indian reservations had telephone subscribership levels that significantly trailed behind the national average. This fact is demonstrated by examining the 25 tribal lands with the highest number of native American

¹⁹ GAO, Report to Congressional Requesters, “Challenges to Assessing and Improving Telecommunications for Native Americans on Tribal Lands,” GAO-06-189, rel. Jan. 2006 (“*GAO Tribal Lands Study*”) at 53 (emphasis added). It is also instructive to note that this significant lag in subscribership has real-life consequences:

It’s a hot August afternoon on the Blackfeet Reservation at the Montana-US border, and Cheryl Greenfeather walks out to her chicken coop to see what the ruckus is. The mountain valley is filled with smoke and a line of wildfire is creeping up the hillside from the far meadow. Trees are on fire. She lets the horses out, grabs her daughter, throws some clothes in the pickup bed, and races down the dirt road. She heads to the gas station where she can call the authorities. After driving 15 minutes, Cheryl finds the gas station is closed. “Gone into Shelby,” says the sign. She drives madly back home, but when she sees her horses on the road she knows her house is gone. Why didn’t she just call from home? Like Cheryl, 65% of the Blackfeet Nation do not have telephones.

Melanie McCalmont, “Outside the Circle: Rural Telecommunications Development on Tribal Lands,” Rural Geography Specialty Group (Sept. 10, 2004), accessed at http://www.wku.edu/~katie.algeo/rgsg/Newsletters/Fall_04_Newsletter/newsletter2004/editor.htm.

²⁰ *GAO Tribal Lands Study* at 11. See also GAO, Testimony of Mark Goldstein, Director, Physical Infrastructure Issues, before the Committee on Commerce, Science, and Transportation, U.S. Senate, “Challenges to Assessing and Improving Telecommunications for Native Americans on Tribal Lands,” GAO-06-513T, rel. Mar. 7, 2006 (“Goldstein Testimony”), at 2. Assertions have been made that the U.S. Census figures overstate the level of telephone subscribership on tribal lands. See *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Comments of National Tribal Telecommunications Association (Apr. 17, 2008) at 2, n. 2 (stating that “[m]any tribal leaders dispute the data gathered by the Census Bureau as being inaccurate”).

households, which represent about 65 percent of all Native American households.²¹ Based on the 2000 census:

Nine of [these] 25 tribal lands, representing about 44 percent of Native American households on tribal lands in the lower 48 states, had telephone subscribership rates at a level below 78 percent—which is about what the national rate was *over 40 years ago* when the 1960 decennial census was taken. The subscribership rate for the most populous tribal land—the Navajo—was only 38 percent.²²

While SBI believes telephone penetration to be substantially higher than that as a result of its efforts to enroll Lifeline-eligible subscribers, it is far from clear that subscribership on Navajo lands is approaching the 94.6 percent of occupied housing units across the country that have telephone service, as reported by the American Community Survey (“ACS”) 2005-2007 data set.²³

While the upward trend in telephone subscribership on tribal lands is encouraging, it would be incorrect to conclude that the Commission’s Tier 4 program has accomplished its mission, or that no augmentation of the program is necessary. The goal of the Tier 4 program is to make telephone service affordable for citizens living on tribal lands. For carriers such as SBI, who are actively building networks to reach citizens, a key component of affordability is the company’s ability to deploy telecommunications infrastructure and networks on tribal lands, and to enhance access to telecommunications services in tribal communities. For SBI, the ability to deploy a sufficient *quantity* of facilities is critical to delivering sufficient service quality to consumers.

²¹ *GAO Tribal Lands Study* at 12.

²² *Id.* at 13 (emphasis added).

²³ The American Community Survey, fully implemented by the U.S. Census in 2005, collects detailed information on the characteristics of population and housing on an ongoing basis. The ACS is conducted every year, with an annual sample size of about 3 million housing unit addresses across the country. The ACS project began releasing three-year period estimates in 2008 for areas and populations as small as 20,000. ACS data cited in this Petition was obtained primarily at http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=ACS&_submenuId=factsheet_0&_lang=en&_ts.

In particular, additional Lifeline support enables SBI to offer additional minutes on its tribal Lifeline rate plans. Over the past eight years, SBI has continued to use high-cost support to build out its network, and it has increased the number of minutes on its Lifeline rate plan from 200 to 500 minutes as system capacity has increased. Increasing available Tier 4 Lifeline support will enable carriers such as SBI to increase the number of minutes on included rate plans, enhancing service affordability by enabling consumers to avoid overage charges.

The following sections will examine some of the problems faced by people residing in tribal communities that are exacerbated by the limited access to adequate telephone service.

2. Poverty on Tribal Lands.

Many American Indians and Alaska Natives are poor.²⁴ According to recent U.S. Census estimates, the percentage of American Indians and Alaska Natives living in poverty is nearly twice the percentage of the overall population living below the poverty level.²⁵ Specifically, based on ACS 2005-2007 data set three-year estimates, 25.8 percent of the American Indian and Alaska Native population lived below the poverty line, compared to 13.3 percent of the national

²⁴ See STEPHEN CORNELL, *INDIGENOUS PEOPLES, POVERTY AND SELF-DETERMINATION IN AUSTRALIA, NEW ZEALAND, CANADA AND THE UNITED STATES 12* (2006) (indicating that Native Americans “are among the country’s poorest citizens. American Indian reservations . . . include a number of America’s poorest places, and reservation-based populations rank at the bottom, or near the bottom, of the scale of income, employment, health, housing, education and other indices of poverty”).

²⁵ Current federal poverty guidelines are as follows:

Persons in family	Poverty guideline
1	\$10,830
2	14,570
3	18,310
4	22,050
5	25,790
6	29,530
7	33,270
8	37,010
More than 8	Add \$3,740 for each additional person

Department of Health and Human Services, Annual Update of the HHS Poverty Guidelines, 2009 Poverty Guidelines for the 48 Contiguous States and the District of Columbia, 74 Fed. Reg. 4199 (Jan. 23, 2009).

population.²⁶ The ACS estimates also showed that 11.9 percent of the American Indian and Alaska Native population lived at less than 50 percent of the poverty level, compared to 5.7 percent of the overall population.²⁷ That statistic means that roughly one in every 10 tribal households with four family members was subsisting on less than \$11,025.²⁸

Based upon 2004 statistics, about 31 percent of American Indian and Alaska Native children (under age 18) lived in poverty, compared to approximately 11 percent of non-Hispanic White children.²⁹ Among those aged 65 and older, American Indians and Alaska Natives had a poverty rate of about 20 percent, compared with about 7 percent for non-Hispanic Whites.³⁰ According to ACS 2005-2007 data set three-year estimates, approximately 39 percent of the people in Navajo Nation lived below the poverty level. Approximately 46 percent of children were below the poverty line. Among those aged 65 and older, 43 percent lived below the poverty line.

These numbers paint a harsh picture. According to the National Congress of American Indians (“NCAI”), “the reality is that Indian reservations have . . . the highest poverty rate of any ethnic grouping in America. . . . [T]he vast majority of tribes continue to be mired in a severe economic depression caused by decades of marginalization.”³¹ The *GAO Tribal Lands Study* has

²⁶ U.S. Census, 2005-2007 ACS 3-Year Estimates, Table S1703, “Selected Characteristics of People at Specified Levels of Poverty in the Past 12 Months.”

²⁷ *Id.*

²⁸ This estimate is based upon current poverty guidelines. To put poverty on tribal lands “in stark terms, counties on Native American reservations are among the poorest in the country and, according to the Economic Research Service at the U.S. Department of Agriculture, nearly 60 percent of all Native Americans who live outside of metropolitan areas inhabit persistently poor counties.” Tom Rodgers, “Native American Poverty: A Challenge Too Often Ignored,” *Spotlight on Poverty and Opportunity* (“Rodgers Commentary”), accessed at <http://www.spotlightonpoverty.org/ExclusiveCommentary.aspx?id=0fe5c04e-fdbf-4718-980c-0373ba823da7>.

²⁹ U.S. Census Bureau, *The American Community—American Indians and Alaska Natives: 2004* (May 2007) at 16.

³⁰ *Id.*

³¹ NCAI, Economic Development, accessed at http://www.ncai.org/Economic_Development.45.0.html.

discussed the barriers that this poverty creates with respect to access to telephone service on tribal lands:

[T]ribal governments must use their tribes' limited financial resources on . . . priorities [other than telecommunications services,] such as water and sewer lines, housing, and public safety. In addition, high levels of poverty on many tribal lands may also make it less likely that tribal residents will subscribe to those telephone and Internet services that are available, particularly when geographic barriers have increased the costs of those services.³²

While it is true that the universal service program cannot adequately attack the roots of poverty on tribal lands across the country, SBI believes that the Lifeline Tier 4 support mechanism is bringing some relief to many Indian tribes affected by these extraordinary levels of poverty. Enhancing the Tier 4 program will further assist in overcoming obstacles to access to telephone service on tribal lands, and in increasing access to telecommunications services.

3. Income and Unemployment Levels Among Indian Tribes.

The Commission stated in the *Twelfth Report and Order* that “tribal communities are among the poorest populations in the United States.”³³ This statement remains true today.

According to an ACS three-year survey (2005-2007), the per capita income of American Indians and Alaska Natives was estimated to be \$16,499, compared to an estimated per capita income of \$30,496 for non-Hispanic Whites. The per capita income of American Indians residing on Navajo Nation reservations was \$9,365. ACS 2005-2007 data set three-year estimates for the Navajo Nation showed that the median income³⁴ of households was \$24,513. The ACS

³² *GAO Tribal Lands Study* at 34.

³³ *Twelfth Report and Order*, 15 FCC Rcd at 12224 (para. 27). See Goldstein Testimony at 8 (“The 2000 U.S. Census showed that the per capita income for residents on tribal lands was \$9,200 in 1999, less than half the U.S. per capita income of \$21,600.”).

³⁴ Webster’s New World Dictionary defines “median income” as “[t]he middle point of area incomes. Median income divides the income distribution range in half, one with residents having incomes above the median, and the other with residents having incomes below the median. . . .” Accessed at <http://www.yourdictionary.com/median-income>.

2005-2007 data set three-year estimates also indicated that the median income for all American Indian and Alaska Native households was \$35,200, and the median income for all households across the country was \$50,007.

These income statistics illustrate the chasm between Indian tribes and the rest of America. The substantial income gap is relevant to the Commission's USF policies because, as the Commission has indicated, "telephone penetration correlates directly with income."³⁵ The fact that the markedly low income levels among Indian tribes contribute to the depressed level of telephone subscribership is another reason supporting SBI's view that the Tier 4 program should be enhanced and expanded by the Commission.

Unemployment rates on tribal lands have always been high, and are likely to get worse if the national economic crisis continues to deepen. The ACS 2005-2007 data set three-year estimates indicated that the unemployment rate for the country as a whole was 6.6 percent, the unemployment rate for the Native American and Alaska Native population was 12.9 percent, and the unemployment rate for the American Indian population in Navajo Nation was 14.2 percent.³⁶

Unemployment on tribal lands, which has its roots in geographic isolation, limited job opportunities, and related factors, can have pernicious effects on livability standards among Indian tribes. A recently published study provides an example of these effects, noting that:

due to the rural isolation, limited employment opportunities, and availability of drugs and alcohol, [tribal reservation] residents tend to turn toward substance

³⁵ *Twelfth Report and Order*, 15 FCC Rcd at 12224 (para. 27) (footnote omitted) (citing National Telecommunications and Information Administration, *Falling Through the Net: Defining the Digital Divide, A Report on the Telecommunications and Information Technology Gap in America* (1999), at 11, Chart I-3, accessed at http://www.ntia.doc.gov/ntiahome/fttn99/FTTN_1/chart-1-3.html).

³⁶ A demographic profile prepared by NCAI in 2007 listed the following unemployment rates on selected reservations: Colville Tribe (Washington), 53 percent; Blackfeet Tribe (Montana), 69 percent; Gila River Indian Reservation (Arizona), 39 percent. NCAI Policy Research Center, "Demographic Profile of Indian Country," (Jan. 10, 2007) (citing statistics in the *Labor Force Report* published by the Department of Interior, Bureau of Indian Affairs), accessed at <http://www.ncaiprc.org/ncai-fact-sheets-and-analysis-census-indian-country>.

abuse. This in turn affects youth attitudes about their future opportunities. Thus, economic development may play a very important role in improving . . . quality of life on the reservation.³⁷

Unemployment is both a cause and a symptom of a destructive cycle of deprivation in tribal communities,³⁸ and SBI believes that improved access to telephone service, which would be made more affordable by expansion of the Tier 4 support program, would assist in breaking this cycle. There is a link between economic development, productivity, income levels, and the deployment of telecommunications infrastructure.³⁹ For example, businesses (and the jobs they

³⁷ Staci Emm & Don Breazeale, *Determining the Needs of American Indian Audiences for Cooperative Extension Programs*, J. OF EXTENSION (Feb. 2008), accessed at <http://www.joe.org/joe/2008february/rb1p.shtml>. The study was based upon a survey of 107 households residing on the Walker River Indian Reservation in Nevada, and was completed in 2005.

³⁸ Unemployment, lack of opportunity, and poverty are inextricably linked on tribal lands:

A major cause of poverty in Native American communities is the persistent lack of opportunity. The Economic Research Service reports that Native American communities have fewer full-time employed individuals than any other high-poverty community. Only 36 percent of males in high-poverty Native American communities have full-time, year-round employment.

On the Blackfoot Reservation in Montana, for example, the annual unemployment rate is 69 percent. The national unemployment rate at the very peak of the Great Depression was around 25 percent. That means that each year the Blackfeet people, whose aboriginal lands once comprised Glacier National Park, suffers an employment crisis nearly three times as severe as the Great Depression.

Rodgers Commentary, accessed at <http://www.spotlightonpoverty.org/ExclusiveCommentary.aspx?id=0fe5c04e-fdbf-4718-980c-0373ba823da7>.

³⁹ See TED JOJOLA, PHYSICAL INFRASTRUCTURE AND ECONOMIC DEVELOPMENT 3 (May 2007) (prepared for the National Congress of American Indians Policy Research Center) (footnotes omitted) (“Telecommunications infrastructure is considered integral to work productivity, personal safety and personal advancement. In particular, wireless technologies have been seen as integral to surmounting barriers such as geographic isolation and low population densities as well as bridging the need for training, technical assistance and education.”), accessed at <http://www.ncai.org/National-Native-American-Econo.228.0.html#c714>; NICHOLAS P. SULLIVAN, CELL PHONES PROVIDE SIGNIFICANT ECONOMIC GAINS FOR LOW-INCOME AMERICAN HOUSEHOLDS 16 (Apr. 2008) (“It is by now a widespread assumption that increases in telephone penetration . . . lead to an increase in labor productivity and national income gains. This is in part because one aspect of telecommunications infrastructure, which distinguishes it from other public infrastructure projects, is the so-called ‘network effect’: the more users, the more value is derived by those users . . .”), accessed at http://www.newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf.

bring with them) cannot take root and grow in tribal communities in the absence of telecommunications networks that are sufficiently robust to support the operations of these businesses.

The Tier 4 program, in addition to providing subsidies to low-income residents on tribal lands, encourages investment in wireless infrastructure and deployment of wireless services. This investment and deployment will spur economic development. In this way, the Commission's policies can help accomplish the task of creating job opportunities, reducing unemployment, and raising income levels in tribal communities.⁴⁰

4. The Geographic Isolation of Tribal Lands.

Geographic remoteness and isolation are additional factors affecting telephone subscribership on tribal lands. "Tribal lands are mostly rural and characterized by large land areas, rugged terrain such as mountains and canyons, low population density, and geographic isolation from metropolitan areas."⁴¹ These conditions "make the cost of building and maintaining the infrastructure needed to provide [telephone] service higher than they would be in urban settings."⁴² This effect of geographic remoteness upon the costs of telecommunications infrastructure deployment can discourage carriers from investing in infrastructure to serve tribal lands, which in turn can adversely affect access to service and subscribership levels.⁴³

⁴⁰ See, e.g., Ex Parte Letter from Sally Greenberg, Executive Director, National Consumers League, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45 (Jan. 7, 2009) at 1 (supporting funding for the Lifeline program and noting that "wireless telephone service has become an essential part of modern life. . . . The advantages that wireless service brings to low-income and working Americans, particularly minority consumers, are well-documented.").

⁴¹ *GAO Tribal Lands Study* at 33.

⁴² *Id.* at 34. See Ex Parte Letter from David A. LaFuria to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-337 (Oct. 25, 2008) at 1 (observing that "Native American lands present truly unique and challenging circumstances for carriers to construct and operate telecommunications networks").

⁴³ See Goldstein Testimony at 8:

[T]wo barriers, the rural location of tribal lands (which increases the cost of installing telecommunications infrastructure) and tribes' limited financial resources (which can make it difficult for residents and tribal governments to pay for services) can combine to deter

The Commission has taken note of the challenges posed by the topography of many Indian reservations, observing, for example, “that, unlike in urban areas where there may be a greater concentration of both residential and business customers, carriers may need additional incentives to serve tribal lands that, due to their extreme geographic remoteness, are sparsely populated and have few businesses.”⁴⁴ The Commission also has pointed out that “[i]n geographically remote areas, access to telecommunications services can minimize health and safety risks associated with geographic isolation by providing people access to critical information and services they may need[,]”⁴⁵ and has agreed with commenters who “suggested that wireless service may represent a cost-effective alternative to wireline service in sparsely populated, remote locations where the cost of line extensions is prohibitively expensive.”⁴⁶

As wireless carriers seek to deploy infrastructure on tribal lands, they continue to face difficulties posed by the remote locations and rugged terrain that typify many Indian reservations. The regions served by SBI are no exception. Because of low population densities, sparse commercial presence on many tribal lands, and similar factors, carriers often are forced to conclude that infrastructure investments, in the absence of USF support, are not economic.⁴⁷ Access

service providers from making investments in telecommunications on tribal lands, resulting in a lack of service, poor service quality, and little or no competition.

See also GAO Tribal Lands Study at 78 (“Geographic isolation has increased the cost of providing service on Navajo lands and limited the number of companies interested in providing telecommunications services. . . . Service providers have told us the cost of deploying telecommunications infrastructure on Navajo lands impedes the provision of services.”).

⁴⁴ *Twelfth Report and Order*, 15 FCC Rcd at 12235 (para. 53).

⁴⁵ *Id.* at 12212 (para. 3).

⁴⁶ *Id.* at 12237 (para. 56).

⁴⁷ Although wireless infrastructure is less expensive than wireline infrastructure, federal support is still critical because the wireless costs can be expensive. *See GAO Tribal Lands Study* at 78:

Geographic isolation has increased the cost of providing service on Navajo lands and limited the number of companies interested in providing telecommunications services. The distances needed to connect communities and homes with copper wires or fiber optic

to telephone service and subscription levels in tribal communities would be adversely affected if these investments are not made. SBI thus urges the Commission to keep its focus on the difficulties posed by geographic remoteness and isolation, and to consider an expansion of the Tier 4 program as a means of continuing to encourage infrastructure investment on tribal lands.

5. Health Issues and Medical Services in Tribal Communities.

The Commission has recognized the link between the availability of telecommunications services and the effective provision of medical services on tribal lands. In the *Twelfth Report and Order* the agency indicated that, “by helping [through enhancing tribal communities’ access to telecommunications services, including advanced telecommunications and information services] to bridge the physical distance between low-income consumers on tribal lands and the emergency, medical, employment, and other services that they may need, our actions ensure a standard of livability for tribal communities.”⁴⁸

The need for medical services in tribal communities is pronounced, and this need frequently is not adequately addressed. NCAI has described the problem in blunt terms:

There is an enormous disparity that exists in both the overall health status and access to health care of [American Indians and Alaska Natives]. The impact of this disparity is felt throughout Indian Country. Native peoples experience higher disease rates and lower life expectancy than any other racial or ethnic group in the country. . . . The prosperity of a community is directly tied to the overall physical and behavioral health of the people within the community.⁴⁹

cable make wireline telecommunications systems expensive. For example, the tribe estimated in 1999 that it cost about \$5,000 to connect a new wireline subscriber. The installation of wireless infrastructure is also expensive due to the vast network of towers and power access needed to relay signals around the rugged landscape. Service providers have told [GAO] the cost of deploying telecommunications infrastructure on Navajo lands impedes the provision of services.

⁴⁸ *Twelfth Report and Order*, 15 FCC Rcd at 12214 (para. 5).

⁴⁹ NCAI, accessed at http://www.ncai.org/Human_Needs_in_Indian_Country.88.0.html.

The concerns expressed by NCAI have been echoed by the Office of Minority Health (“OMH”), which has concluded that “[i]t is significant to note that American Indians [and] Alaska Natives frequently contend with issues that prevent them from receiving quality medical care. These issues include cultural barriers, geographic isolation, inadequate sewage disposal, and low income.”⁵⁰ The array of statistics in the following paragraphs attests to the fact that there is an ongoing health and medical care crisis in many tribal communities throughout the country.

Chronic medical conditions, and the absence of health care insurance, are significant problems on tribal reservations. Approximately 21.8 percent of the American Indian and Alaska Native population have a limitation in usual activities due to one or more chronic health conditions⁵¹ (compared to approximately 11.9 percent of the White population).⁵² Approximately 38 percent of the American Indian and Alaska Native population under age 65 do not have any health care insurance⁵³ (compared with approximately 16.7 percent of the White population),⁵⁴ and approximately 18.0 percent of the American Indian and Alaska Native adults, 18 years old or older, do not have any usual source of health care⁵⁵ (compared to approximately 5.1 percent of the White population).⁵⁶

⁵⁰ HHS-OMH Profile.

⁵¹ Centers for Disease Control and Prevention (“CDC”), National Center for Health Statistics (“NCHS”), Health of the American Indian or Alaska Native Population, accessed at <http://www.cdc.gov/nchs/fastats/indfacts.htm> (“NCHS-Indian Population”).

⁵² CDC, NCHS, Health of White Population, accessed at http://www.cdc.gov/nchs/fastats/white_health.Htm (“NCHS-White Population”).

⁵³ NCHS-Indian Population.

⁵⁴ NCHS-White Population.

⁵⁵ NCHS-Indian Population.

⁵⁶ NCHS-White Population.

The life expectancy of the American Indian and Alaska Native population is 70.6 years, compared to 76.5 years for the U.S. population as a whole.⁵⁷ Among the American Indian and Alaska Native male population, life expectancy is 66.1 years, compared to 73.2 years for the overall male population in the United States.⁵⁸ The infant death rate per 1,000 live births is 8.06 for the American Indian and Alaska Native population,⁵⁹ compared to 5.73 for the White population.⁶⁰

In 2007, the tuberculosis rate for American Indians and Alaska Natives was 5.9 cases per 100,000 population, compared to 1.1 cases per 100,000 population for the non-Hispanic White population.⁶¹ From 2001 through 2005, American Indian and Alaska Native men were twice as likely as non-Hispanic White men to have liver cancer or related cancers. American Indian and Alaska Native men were 1.8 times as likely as non-Hispanic White men to have stomach cancer, and over twice as likely to die from the disease. American Indian and Alaska Native women were 2.4 times more likely than non-Hispanic White women to have (and to die from) liver cancer and related cancers.⁶²

In 2005, American Indian and Alaska Native adults were 1.3 times as likely as White adults to have high blood pressure. American Indian and Alaska Native adults were 1.2 times as likely as White adults to have heart disease. American Indian and Alaska Native adults were 60

⁵⁷ Donald Warne, *American Indian Health Policy in the Next Administration: A Clinician's Perspective*, NCAI, Oct. 22, 2008, accessed at <http://74.125.47.132/search?q=cache:LpeoAInP8BUJ:www.ncai.org/ncai/2008annual/Health%2520Policy%2520in%2520the%2520Next%2520Administration%2520Clinician%27s%2520Perspective.ppt+%22american+indian%22+%22life+expectancy%22&hl=en&ct=cInk&cd=42&gl=us> (Power Point presentation).

⁵⁸ *Id.*

⁵⁹ NCHS-Indian Population.

⁶⁰ NCHS-White Population.

⁶¹ HHS-OMH Profile.

⁶² *Id.*

percent more likely than White adults to have a stroke.⁶³ Statistics also reveal that diabetes continues to be a severe problem faced by tribal communities. American Indian and Alaska Native adults are 2.2 times as likely as White adults to have diabetes, and American Indians and Alaska Natives are at least three times as likely as the U.S. general population to die from diabetes. Between 1994 and 2004 the increase in diabetes among American Indian and Alaska Native youth aged 15-19 years was 68 percent.⁶⁴

Native Americans are at a higher risk for mental health disorders than any other racial or ethnic group in the United States.⁶⁵ As of 2004, the suicide rate for Native Americans was continuing to increase, and stood at 190 percent of the rate for the general population.⁶⁶

The sampling of health and medical care statistics presented in this section highlights the fact that health problems faced by American Indians and Alaska Natives are more severe than those faced by the U.S. population as a whole. These problems impose costs, which often are not paid by health insurance,⁶⁷ and exact real consequences, such as shortened life expectancy. But an important tool to help improve medical care—namely, access to adequate and affordable telephone service—is also a continuing problem in tribal communities.

⁶³ *Id.*

⁶⁴ U.S. Dept. of Health and Human Services, Indian Health Service, Division of Diabetes Treatment and Prevention, *Diabetes in American Indians and Alaska Natives: Facts At-a-Glance* (June 2008), accessed at <http://www.ihs.gov/MedicalPrograms/Diabetes/index.cfm?module=resourcesFactSheets#1>. See also Letter from Senator John McCain and Senator Byron L. Dorgan to Senator Judd Gregg and Senator Kent Conrad (Mar. 2, 2006) at 3 (“Indians have a 670% higher death rate from alcoholism, a 318% higher death rate from diabetes, and a 650% higher death rate from tuberculosis than the general population.”), accessed at <http://74.125.45.132/search?q=cache:4QlrSAh7glcJ:www.nsaie.org/docs/SenateCommittee.pdf+mccain+conrad+gregg+dorgan+%22senate+indian+affairs%22&hl=en&ct=clnk&cd=34&gl=us>.

⁶⁵ U.S. Commission on Civil Rights, *Broken Promises: Evaluating the Native American Health Care System* (Sept. 2004) at 11.

⁶⁶ *Id.* at 13.

⁶⁷ See U.S. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States: 2005* (Aug. 2006) at 24, Table 9 (an estimated 29.9 percent of the American Indian and Alaska Native population does not have any health insurance coverage, compared to 11.2 percent of the non-Hispanic White population).

As SBI discussed above, the Commission has recognized the important link between access to telecommunications services and access to medical care services and facilities. SBI believes that the Lifeline Tier 4 program has been helpful over the past nine years in addressing the limited availability of affordable telephone service in tribal communities, and that the Commission should now act to expand the Tier 4 program in order to enhance the role that subsidized telephone service available to low-income residents on tribal reservations can play in helping to alleviate the health and medical care issues that plague tribal communities.

V. SBI's PROPOSAL TO EXPAND LIFELINE TIER 4 SUPPORT FOR LOW-INCOME CONSUMERS LIVING ON TRIBAL LANDS.

SBI has filed this Petition, requesting the Commission to initiate a rulemaking to consider an expansion of the Lifeline Tier 4 support program, because SBI is convinced that such an expansion is necessary to bring subscribership levels in tribal communities closer to parity with subscribership in other parts of the country, and also is necessary to enhance the Commission's promotion of investment in telecommunications infrastructure and the deployment of telecommunications services on tribal lands.

In this section SBI will discuss its own ongoing involvement in the provision of wireless telecommunications services on tribal lands, and the Commission's statements of its continuing commitment to seek ways to improve the availability of telecommunications services in tribal communities. SBI will then explain the particulars of its proposed revisions to the Tier 4 program, and will discuss the benefits that would be realized by these proposed revisions.

A. SBI's Provision of Wireless Services in Tribal Communities.

The vast majority of SBI's service territory is on tribal lands, and the vast majority of Lifeline eligible households receiving service from SBI are located on tribal lands. As SBI has

documented in this Petition, tribal lands are among the most difficult areas in the Nation to provide telecommunications services. In many of SBI's service areas, SBI is the only reliable source of basic voice communications services. Some of its service areas are so remote that SBI serves as a *de facto* Public Safety Answering Point, providing connectivity to residents of tribal communities in emergency situations.

SBI's deployment of wireless infrastructure on tribal lands and its construction of facilities used in the provision of telecommunications services to tribal communities has played an important role in increasing access to telecommunications services and improving subscribership levels on tribal lands served by SBI. The support available from the USF high-cost and Lifeline programs has helped make it possible for SBI to make substantial investments in pursuit of its commitment to bring wireless services to tribal reservations. SBI's network on tribal lands has grown significantly, now providing high-quality service to most of the areas where SBI is licensed to serve. High-cost support has also enabled SBI to upgrade its analog network to digital. That said, more needs to be done to extend high-quality service throughout the area to provide residents of tribal lands with service that is reasonably comparable to that which is available in urban areas.

Launched in June 2001, SBI's VisionOne™ service permits qualifying low-income subscribers residing on tribal lands to purchase telephone service that includes 500 minutes per month of local "anytime" airtime at a monthly rate of \$1.00. SBI originally offered a Lifeline plan that included only 200 minutes of airtime, but has been steadily increasing the included minutes to consumers in response to demand, consistent with network capacity. These increases were made possible in part by network and infrastructure expansions that enabled SBI to accommodate more customers and greater traffic volumes.

VisionOne™ subscribers are also given the capability to access a host of “free call” numbers (e.g., hospitals, police departments and fire departments, and other community and government agencies and organizations) without incurring any toll charges or deduction from the subscribers’ monthly airtime use allotments.

Through offerings such as VisionOne™, and with Tier 4 support, SBI has been successful in bringing valuable and affordable telecommunications services to tribal communities. An expansion of the Tier 4 program will enable SBI, and other ETCs, to increase the number of minutes included in offerings such as the VisionOne™ service.

B. The Commission Should Continue Its Efforts To Improve and Expand the Lifeline Tier 4 Program.

The Commission has observed that the Lifeline program has been an effective initiative by the agency, pointing out that “[s]ince its inception, Lifeline/Link-Up has provided support for telephone service to millions of low-income consumers.”⁶⁸ Nonetheless, the Commission has also acknowledged that, “[t]o ensure their effectiveness in addressing the low subscribership levels on tribal lands, we intend to monitor the impact of the enhanced federal support measures and to adjust the measures as appropriate.”⁶⁹

Five years ago, adhering to the commitment made in the *Twelfth Report and Order* to monitor the effectiveness of the Lifeline and Link-Up programs, the Commission concluded that “there is more that we can do to make telephone service affordable for more low-income house-

⁶⁸ *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8305 (para. 1) (2004) (“*2004 Lifeline and Link-Up Order*”) (footnote omitted).

⁶⁹ *Twelfth Report and Order*, 15 FCC Rcd at 12216 (para. 13). The Commission also has made it clear that it has statutory authority to expand the Lifeline program. See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twenty-Fifth Order on Reconsideration, Report and Order, Order, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10958, 10968 (para. 19) (2003).

holds[,]”⁷⁰ and it acted to expand federal default eligibility criteria and to adopt outreach guidelines for the Lifeline and Link-Up programs.⁷¹

SBI believes that, although the Lifeline program has been effective in providing low-income consumers on tribal lands with the opportunity to subscribe to telephone services, more can and should be done to ensure that the Tier 4 program helps to bring telephone services to tribal communities and to improve the level of subscribership of tribal households.⁷² As SBI has discussed above, tribal subscribership and the quantity of service available has improved, but the task is far from complete.

C. SBI’s Proposal Would Benefit Tribal Communities.

As discussed above, SBI believes the Commission should initiate a rulemaking proceeding to examine whether to increase Tier 4 support by an additional \$5.00 per month, so that the Tier 4 program would provide up to \$30.00 per month (in addition to other available Lifeline support) for subscribers on tribal lands. This increase in the level of Tier 4 support would enable SBI to continue to increase its VisionOne™ service above its current 500 minutes of local “any-time” airtime per month, while retaining the monthly subscriber rate of \$1.00. This increase in minutes would move SBI closer to its goal of offering Lifeline subscribers *unlimited* local “any-time” airtime for \$1.00 per month.

The expansion of the Tier 4 program proposed by SBI would help address the major impediments to increased levels of subscribership on tribal lands. Expanding the Tier 4 program would enable SBI and other carriers to increase their investment in their networks and system

⁷⁰ 2004 Lifeline and Link-Up Order, 19 FCC Rcd at 8305 (para. 1).

⁷¹ *Id.* at 8305 (para. 2).

⁷² See, e.g., Letter from Ben Shelly, Vice President, The Navajo Nation, to Kevin J. Martin, Chairman, FCC (July 11, 2008) at 1 (“We have been fortunate to have several companies willing to use the universal service program to extend services to our people. The efforts of these companies have dramatically increased telephone penetration on our lands. There is however, much to be done.”).

infrastructures. This would result in greater access to telephone services on tribal lands and would serve the Commission's objective to "remedy the disproportionately lower levels of infrastructure deployment and subscribership prevalent among tribal communities"⁷³

Overall, SBI believes that, by promoting entry on tribal lands by wireless carriers through expansion of the Tier 4 program, the Commission would benefit tribal communities by enabling access to services of lower-cost providers.⁷⁴ Wireless services typically can be provided on tribal lands at lower costs than wireline services,⁷⁵ thus making them an attractive alternative for tribes with limited financial resources.

D. SBI's Proposal Would Have a Negligible Impact on Fund Size.

For the first six months of 2008, USF expenditures on tribal Lifeline support was \$40 million, implying an annual expenditure of \$80 million.⁷⁶ SBI's requested \$5.00 increase amounts to an increase of approximately 15 percent above current Lifeline support provided to tribal lands (from a total of approximately \$33 to \$38 per month), which implies a \$12 million increase in annual tribal Lifeline support. When compared to the size of the overall Lifeline pro-

⁷³ *Twelfth Report and Order*, 15 FCC Rcd at 12219 (para. 20).

⁷⁴ The Commission has indicated that:

to the extent that a competitive eligible telecommunications carrier offering an alternative to wireline technology can extend service to a remote tribal area at a substantially lower cost than a wireline carrier, we believe that it is a more economically efficient use of federal universal service funds to create incentives, in the first instance, for the lower-cost provider to provide the service.

Id. at 12241(para. 62) (footnote omitted) (discussing the Link Up program).

⁷⁵ *GAO Tribal Lands Study* at 44-45 ("Service providers and equipment manufacturers told [GAO] that wireless service is often less expensive to deploy across large distances than wireline service because wireless infrastructure, such as a tower, is less expensive to deploy than a wireline infrastructure.").

⁷⁶ Source: <http://www.universalservice.org/about/governance/fcc-filings/2009/quarter-1.aspx> at Table LI05.

gram (approximately \$800 million per year), the increase is only 1.5 percent.⁷⁷ When compared to an annual outlay of over \$7 billion for all USF programs, the increase is only 0.17 percent.⁷⁸

Under any reasonable interpretation, the impact on the overall size of the fund will be negligible. SBI submits that the potential benefits to be gained by improving telephone service on tribal lands significantly outweigh the very nominal increase in the size of the overall fund resulting from the suggested change.

VI. CONCLUSION.

For all the foregoing reasons, SBI hereby petitions the Commission to initiate a rulemaking proceeding for the purpose of expanding the Tier 4 Lifeline support mechanism by increasing the level of support by an additional \$5.00 per month, so that the Tier 4 program provides up to \$30.00 per month of support to qualifying low-income subscribers.

Respectfully submitted,
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⁷⁷ Source: <http://www.universalservice.org/about/governance/fcc-filings/2009/quarter-2.aspx> at Table MO2.

⁷⁸ *Id.*

Exhibit A

Proposed Rule Change

[Additions underlined, deletions ~~struck through~~.]

TITLE 47—TELECOMMUNICATION

* * * * *

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

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SUBCHAPTER B—COMMON CARRIER SERVICES

* * * * *

PART 54—UNIVERSAL SERVICE

* * * * *

Subpart E—Universal Service Support for Low Income Consumers

* * * * *

§ 54.403 Lifeline support amount.

(a) The Federal Lifeline support amount for all eligible telecommunications carriers shall equal:

* * * * *

(4) *Tier Four*. Additional federal Lifeline support of up to \$~~25~~ 30 per month will be made available to a eligible telecommunications carrier providing Lifeline service to an eligible resident of Tribal lands, as defined in § 54.400(e), to the extent that:

(i) This amount does not bring the basic local residential rate (including any mileage, zonal, or other non-discretionary charges associated with basic residential service) below \$1 per month per qualifying low-income subscribers; and

(ii) The eligible telecommunications carrier certifies to the Administrator that it will pass through the full Tier-Four amount to qualifying eligible residents of Tribal lands and that it has

received any non-federal regulatory approvals necessary to implement the required rate reduction.

(b) For a qualifying low-income consumer who is not an eligible resident of Tribal lands, as defined in § 54.400(e), the federal Lifeline support amount shall not exceed \$3.50 plus the tariffed rate in effect for the primary residential End User Common Line charge of the incumbent local exchange carrier serving the area in which the qualifying low-income consumer receives service, as determined in accordance with § 69.104 or § 69.152(d) and (q) of this chapter, whichever is applicable. For an eligible resident of Tribal lands, the federal Lifeline support amount shall not exceed ~~\$28.50~~ 33.50 plus that same End User Common Line charge. Eligible telecommunications carriers that charge federal End User Common Line charges or equivalent federal charges shall apply Tier-One federal Lifeline support to waive the federal End-User Common Line charges for Lifeline consumers. Such carriers shall apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the carrier has received the non-federal regulatory approvals necessary to implement the required rate reduction. Other eligible telecommunications carriers shall apply the Tier-One federal Lifeline support amount, plus any additional support amount, to reduce their lowest tariffed (or otherwise generally available) residential rate for the services enumerated in § 54.101(a)(1) through (a)(9), and charge Lifeline consumers the resulting amount.